

Thos. Alured

A
GUIDE
FOR
CONSTABLES,

Churchwardens, Overseers of the Poor,
Surveyors of the High-ways, Treasurers of the
County-Stock, Masters of the House of Correction,
Bayliffs of Mannors, Toll-takers in Fairs, &c.

A
TREATISE

Briefly shewing
The Extent and Latitude of the several
Offices, with the Power of the Officers therein,
both by Common-Law and Statute, according
to the several Additions and Alterations of the
Law, to this present time.

Wherein the Heads of the New Statutes for Bury-
ing in Woollen; For collecting the Maintenance
of the Ministers in *London*; For the Streets,
Pavements, Sewers, and Dreins in *London*; and
for the Prohibiting of *French Goods*, are (among
others) inserted under their proper Titles.

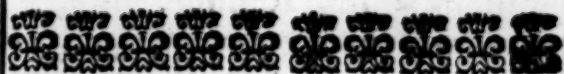
The Eighth Edition Enlarged.

Collected by *Geo. Meriton, Gent.*

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Edward Atkins* Esquires; and are to be sold
by most Booksellers. 1685.



9/01



TO THE READER.

THe former Edition of this Treatise, Entitled *A Guide for Constables, &c.* being found by late experience to be now but a Blind Guide, apt rather to lead thee out of the way, than to direct thee, in regard that several of the Acts of Parliament therein mentioned, are now Expired, and others of them so altered by subsequent Acts of Parliament, that in abundance of Cases the Law is wholly changed from what it was when that Edition was published: I conceived it would be no unacceptable Service to the Publick, to prepare this New One for the Press: Therein thou wilt find the Heads of all the New Statutes made since the 22th. Year of His Majesties Reign (for that other went no farther) which concern the Matter handled,

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To the Reader.

led in this Book, faithfully inserted; Others, which are since that time discontinued, omitted, and for the most part, the times of their Expiration: The Continuance or Reviver of several Statutes, which were then but Temporary. And in short, whatever Alterations of the Law have been made since the said 22th Year in reference to this Subject: Farewel.

Offob.

1681

To

To all Constables, Tything-
men , Head-boroughs ,
Burshoulders, &c.

SIR S,

HAVING many times consider-
ed of the large Extent of
the Constables Office, and
how little skill or knowledge many
of you have, who are often called to
take upon you the same Office, and
also how few Authors there be who
have writ on this Subject, Mr. Lam-
bert, Mr. Wingate, and Mr. Shep-
pard being the Chief, whose Rules
at this day are very unsafe for the
Constables to square their Actions
by: for Mr. Lambert's Book being
a Discourse principally of the Com-
mon Law cases, is now much altered
by Statute since, and that Book of
the Office of a Constable Fathered
upon Mr. Wingate, I am verily per-
suaded was none of his Work; for
there are some unwarrantable Au-

thorities and gross Errors in it, which could not have slipped his ingenious Pen if the Work had been his; and for Mr. Sheppards's Book, it is stuf't full of Acts and Ordinances of that Convention at Westminster (which in the late times of Usurpation and Rebellion was owned for a Parliament) which Ordinances are now of no force; Therefore none of these being safe and warrantable Rules for the Constables to walk by, but blind Guides to lead them into the by-paths and crooked Meanders of many Errors; I thought thereupon that some little Treatise of this Subject might not only prove very useful, but also very beneficial for the generality of People of this Kingdom; which consideration hath occasioned me to publish this small unpolished Epitome; and though I know the Book will fall under many hard Censures of those who are far better able to undertake the Work, yet I hope, Dear Friends,

Friends, my willingness to contribute anything to your Service, though but a Mite, doth claim your favourable Acceptance of my pains; Remembering the old saying—est voluisse satis; and there is nothing of so little regard, but hath something of worth in it, and I despair not of some profit hence to you for whom it is intended, and for whose ease, satisfaction and direction it was collected and published by him, Kind Friends, whose ambition and desire is, and shall be

*Red-Hall.
Feb. 25.
1668.*

*Yours ready to serve
in what he may,*

George Meriton.

The

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A

A
GUIDE
FOR
CONSTABLES, &c.

CHAP. I.

Of the derivation of the word Constable, how many sorts of Constables, the Antiquity of the Office, the several Appellations of this Officer in several places who ought to be chosen to the said Office, and how and where to be sworn, with the form of the Constables Oath.

THE word *Constable* is derived or compounded of two old Saxon words, *Cuninge*, or *Kininge*, which signifieth *King*, and *Stable* signifieth *Stability*; shewing that these ancient Officers were reputed to be as the *Stability* or *Stay* of the *King* and *Kingdom*, *Co. 4. Part Inst. fol. 123. Lamb. Office of Const. 5. & Dalt. J. P. c. 15. fol. 46.*

There are only two sorts of Constables, of whose office this Treatise maketh particular mention, and that is *High Constables* of *Hundreds*, and *Petty Constables* in *Towns* and *Parishes*.

B

Now

Now by the opinion of some men these High Constables were first ordained to be chosen by the Statute of *Winchester*, and they were to make view of Armor twice every year, and to present before the Justices assigned defaults of Armor, Watches, High-ways, Hue and Cry; and also such as lodged Strangers for whom they would not answer. *Lamb. 5. Raftall 379. C. D. 13 E. 1. c. 6. Dalton's J. P. 2, 16. fol. 46.*

And that the Petty Constables In Towns and Parishes, were after devised for the aid of High-Constables of Hundreds, about the beginning of the Reign of King *Edward the Third.* *Lamb. Du. Const. pag. 9.*

But others are of opinion, that the High Constables were Conservators of the Peace within their several Hundreds and Limits, by the ancient Common Law. *Crompt. 6. & 222. 12 H. 7. fol. 18.*

And that whereas the Sheriffs of Counties at the first had the Government of their Counties committed to them, that afterwards by reason of the multitude of people, it being then too great a task for one man to undertake, thereupon Hundreds were deduced and derived out of the Countries, and in every one of them was ordained a Conservator of the Peace, who was called the High Constable; and after this Boroughs or Towns were made, and within every one of them also was ordained a Conservator of the Peace, who is called the Petty Constable: and this was long before the time of King *Edward the Third*, as appears by the derivation of the words, and that they were in the time of the *Saxons*, so that

that it may seem as well the High Constables, as the Petty Constables, and their Authorities, were by the Common Law; and that the old Statutes concerning them, are but a Recital of the ancient Common Law, 12 H. 7. fol. 18 a. Dalt. J. P. c. 16. fol. 46.

Now there be other Officers of much like Authority to the Constables, as the Bursholders in Kent, the third Burrough in Warwickshire, and the Tythingman, Burrough-head, or Headburrough, or Chief Pledge in other places; but yet the Office of a Constable is distinct and (as it seemeth) is of greater Authority than these other: for it is held by some, that these Bursholders, Thirdburroughs, Tythingmen, &c. being in a Town or Parish where a Constable is, that in such case they cannot meddle, because the Constables be (in comparison of them) Head Officers, and that the others are but as Assistants to the Constables in all Services of his Office when the Constable is present, and in his absence then these others are to attend the Service; and that there are many other things which the Constables may do, and wherewith the Bursholders and the rest cannot meddle at all; and yet in Towns where there be no Constables, and that the Bursholders, Tythingmen, &c. be there the only Officers for the Peace, as also in such case where the Power or Authority of a Bursholder, Tythingman, &c. is declared to be equal with the Power of the Constable, in all such cases and things, their Office and Authority be in a manner all one. See 1 Jac. c. 7. Lamb. pag. 4, 6, 9, 51, 52, 53, 54, 55. Dalton's J. P. ch. 1. fol. 3, 4.

Where any Statute doth appoint offenders to be punished by the Constable, or other Inferiour Officer, in such case the Tythingman, Headburrrough, &c. may do it, for they are supposed to be Inferiour Officers to the Constable. *Dalton's J. P. ch. 1. fol. 4.*

Note that these Officers are to be attendant to Court-Leets, Justices of the Peace, and Coroners, for the executing of their Warrants, within their several Precincts.

And now as to the choice of these Constables, you shall understand that the Law requirerh that every Constable be *Idoneus homo*, that is, apt and fit for the execution of the said Office, and he is said in Law to be *Idoneus*, who is indued with these three things, honesty, knowledge and ability. *Co. 8. lib. Rep. fol. 41. in Grislyes case there.*

First, he ought to have Honesty to execute his Office truly, without malice, affection or partiality. Secondly, Knowledge to understand what he ought to do. And lastly, Ability as well in substance or estate, as also in body, that so he may attend and execute his Office diligently, and not, through impotency of body or want, to neglect the place; for Constables chosen out of the meaner sort, they are either ignorant what to do, or dare not do what they should, or are not able to spare the time to execute the Office; they ought therefore to be of the ablest sort of men, and are not to be chosen either by House or other Custome, if they be not fit persons for the Office. *Co. 8. lib. Rep. fol. 41.*

And if any one shall be chosen Constable, which is not thus qualified and inabled, he may

may by Law be discharged of his said Office, and another fit man may be appointed in his place. *Co. 8. lib. Rep. fol. 42.*

Clergy-men, Justices of the Peace, Lawyers, Physicians, Attorneys, Women, whether Maids or Widows, Madmen, Infants, Old, Sick, decrepit persons, nor poor people are not to be chosen to the Office of Constable.

And note, that a man is to serve this Office in respect of his personal abode and place of Residency, and not in respect of his Land in another place, for if he have Land in one place, and keep house in another place, he must serve where he lives, and not where his Lands lie.

A Custom in a Parish or Town, that the Office of a Constable shall go by the house, is not good; for if a Woman have an house there, she is eligible, which is against Law; but a Custom, that every man, sufficient in the place, shall serve the Office himself, or find a sufficient man to serve it, may be good. *Cro. 1. Part. Rep. fol. 283.*

A Leet choosing unable or unfit Constables is cause of forfeiture of the Leet, and such choice is void, and two Justices of Peace upon complaint to them made, may remove such a Constable, and choose and swear a new one. *Dalton's J. P. cap. 15. fol. 47. Steels Rep. fol. 21. Mich. 22 Car. 1. B. R. Bolstreds 1 Part. Rep. fol. 174.*

The High Constables are most usually chosen at the Quarter Sessions of the Peace for that County, and are either to be sworn there, or else by Warrant from the Sessions to be sworn elsewhere; and if it happen

that they be chosen out of the Sessions, then ought they to be chosen by the greater number of the Justices of that division where they dwell. *Lamb. 190. 13 E. 1. Stat. Winch. Dalt. J. P. ch. 16. fol. 46.*

And in such manner as they are to be chosen, in the same manner, and by the like Authority are they to be removed; for *eodem modo quo quid constituitur, dissolvitur.*

By the Stat. of the 34 H. 8. Two Justices of the Peace, the one being of the *Quorum*, may appoint the High Constables in *Wales*, 34 H. 8. *ch. 26.*

Now for the Swearing and Choosing of petty Constables, it properly belongs to the Court-Leet, but in ancient time they were yearly appointed by the Sheriffs in their turn, and were there sworn and received their Oath, and so they may still. *Bacons use of the Law, pag. 5, 6. Dalt. J. P. c. 16. fol. 47 & ch. 121. fol. 366.*

Constables lawfully chosen, if they shall refuse to be sworn, the Justices of Peace may bind them over to the Assises, or Sessions of the Peace. *Dalt. J. P. c. 16. fol. 47. vide Crawleys Case. cro. 1. Part. fol. 409.*

A Constable of an Hundred or Parish, may not make a Deputy to execute his Office, as some hold opinion, but a Deputy may do under him many parts of his Office in his Name, so still as the Constable must answer for it. *Bolstrods 3. Part Rep. fol. 77, 78.*

If any Action be brought against a Justice of Peace, Mayor, or Bailiff of a Corporation, Headborough, Port-Reeve, Constable, Tythingman, Collector of Subsidies or Fifteens, Church-

Church-wardens, Sworn-men Overseers of the Poor, or their Assistants, for any thing done by reason of their several Offices, they may plead the general Issue, and give the special matter in Evidence. 7 Jac. c. 5. 21 Jac. c. 12. Wingate Abr. Stat. Title Evidence.

And all Actions brought against such Officers, must be laid in the County where the fact was done, and in case where the Verdict passes for the Defendant, or the Plaintiff is Non-suit, or discontinues his Suit, these Officers shall be allowed double costs to be recovered as other Defendants recover their costs. 7 Jac. c. 5. 21 Jac. c. 12. Wingate Abr. Stat. Tit. Evidence.

The form of the Constables Oath is as followeth :

YOU shall swear well and faithfully to serve our Sovereign Lord the King, and the Lord of the Mannor, in the Office of a Constable; you shall see the Kings Peace to be well and duly kept and preserved to the utmost of your power; you shall arrest all such persons as in your presence shall ride or go armed offensively, or shall commit or make any Riot, Affray, or other breach of the Kings Peace; you shall do your best endeavour that the Statute of Winchester for the watch in your Town be duly kept, and that Hue and Cry, and the Statutes for punishment of Sturdy Beggars, Rogues, Vagabonds, Night-walkers, and other idle and wandring persons within your Liberties be duly put in execution: You shall do your best endeavour upon complaint to you made to apprehend all Felons, Barrators, Rioters, and persons making

making Affrays, and if any such persons shall make resistance with force, you shall levy Hue and Cry, and shall pursue them till they be taken; you shall have a watchful eye to such persons as shall maintain or keep any common house or place, where any unlawful Games or Plays are or shall be used, as also to such persons as shall frequent or use such places, or shall exercise or use any unlawful Game or Plays there, or elsewhere contrary to the Statute. At your Assises, Sessions, or Leet, you shall present all and every the offences committed or done contrary to the Statutes made and provided for the restraint of inordinate haunting and Tip'ing in Taverns, Inns, and Alehouses, and for repressing of Drunkenness and profane Swearing. You shall true presentment make of all bloodshedding, Affrays, Outcrys, Rescues, and other offences committed or done against the publick Peace, within your Limits: you shall well and truly execute all Precepts and warrants to you directed from the Justices of Peace, and others in Authority in this County; and you shall well and duly, according to your knowledge, power and ability, do and execute all other things belonging to the Office of a Constable, so long as you shall continue in the said Office.

So help you God.

Or the Oath may be given to the Constable in short thus :

YOU shall swear that you shall well and truly execute the office of a Constable (or Tythingman for the Parish (or Tything) of C. this next year, or half a year, as the case is) and until another be sworn in your Room,
or.

or you shall be legally discharged thereof.

So help you God.

Note, That the Statute of 25 Car. 2. ch. 2. which appoints Officers and others to take the Oaths of Supremacy and Allegiance, and the Test therein mentioned doth not extend to the Offices of High Constable, Petty Constable, Tythingman, Headborough, Overseers of the Poor, Churchwardens, Surveyors of the Highways, and the like Inferiour Civil Offices.

CHAP. II.

The Constables Office about Affrays.

IF any man shall make an Affray or Assault upon another in the presence of the Constable, or if any man in his presence shall threaten to kill, beat or hurt another, or shall be in a fury ready to break the Peace, in every of these cases the Constable may commit the Offenders to the Stocks, or to some other safe custody for the present (as the quality of the person requireth) until such time as he can carry them before some Justice of the Peace, or to the Goal, until they shall find Sureties for the Peace, which Surety the Constable himself may also take by an Obligation to be sealed and delivered to the Kings use: and so was the opinion of *Walmesly, Owen, and Beaumont*, in the Argument of *Skarret's Case*, Trin. 35 Eliz. Co. Ban. Rot. 1458. But my Lord *Anderson* said, That the Constable ought to carry the Parties that he should see breaking the

Peace, before a Justice to find Sureties for the Peace; and at this day this is the most usual and safest way. *Vide* 3 H. 4. 9, & 10. *Bacon's use of the Law* fol. 5. *Dalt. J. P. c. 1. fol. 4, 5. & c. 118. fol. 340. Kitchen's Court-Lett, &c. fol. 69. a. 22 E. 4. fol. 35.*

In case where the Constable had taken such an Obligation to the use of the King, he was to send it into the Exchequer or Chancery, from whence process should be awarded to levy the debt, if the Peace were broken. *Dalton's J. P. c. 1. fol. 5. Bacon's use of the Law. 5.*

The Constable in the Kings Name ought to command Affrays, or such as are about to make an Affray, to avoid or surcease, and to depart on pain of Imprisonment; and if the Constable being present at an Affray, doth not his best endeavour to part them, it being presented by the Enquest at the Sessions of the Peace, such Constable may be fined for it. *Dalt. J. P. c. & fol. 33.*

If any person be dangerously hurt in any Affray, the Constable, (or any other person) may arrest the Offender, and carry him to a Justice of Peace, who is either to Bayl him till the next Goal-delivery, or to commit him to the Goal until it be known whether the party hurt will live or dye thereof. *Bro. faux Imp. 35. 44. 3 H. 7. 1. 10 H. 7. 20. Lamb. 136. 38 E. 3. 8. & 11 Dalt. J. P. ch. 8. fol. 33. Kitchen fol. 68.*

If the Affrayers will not depart but shall draw weapons, or give any blow, the Constable may command assistance of others for the pacifying of the Affray, and may justify the beating or wounding of them, if they make resistance,

resistance, and if either the Constable, or any in his Assistance be slain, it is murder in the Affrayers. *Lamb. 135. 1 H. 7. 7. 3 H. 7. 10. Co. 4. lib. rep. fol. 4. & Co. 9. lib. rep. fol. 66.*

The Constable (if the Affray be great or dangerous) may in the Kings Name make Proclamation, that the Affrayers shall keep the Kings Peace, and depart, &c. And if the Affray be in an house, and the doors shut, the Constable may break into the house to see the peace kept, though none of the parties have taken any hurt; and if the Affrayers fly into another mans house, the Constable upon fresh pursuit may break into such house, and apprehend the Affrayers. *Dalt. J.P. cb. 8. fol. 34. 33. Lamb. 135. 7 E. 3. 19.*

And where the Affrayers fly into another County, the Constable seeing this, may freshly pursue, or cause them to be pursued, and to be taken there: but then in such case the Constable can meddle no further (but as every private man may do) to carry them before some Justice of Peace of the County where they are taken, to cause them to find Sureties for the Peace. *Crompt. 146. b. & 172. b. Dalt. cb. 8. fol. 34. cb. 118. fol. 340. Plo. 37.*

But in case where the Affrayers flee into a Franchise only within the same County where the Affray was, there the Constable, seeing this, may freshly follow and take them out of such Franchise, *Crompt. 146. Dalt. J.P. cb. 8. fol. 34.*

Note that after the Affray be over, the Constable without a Warrant cannot arrest the Affrayers, except some person be in peril of death by some hurt there received; but before
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Peace, before a Justice to find Sureties for the Peace; and at this day this is the most usual and safest way. *Vide* 3 H. 4. 9, & 10. *Bacon's use of the Law* fol. 5. *Dalt. J. P. c. 1. fol. 4. 5. & c. 118. fol. 340. Kitchin's Court-Lett, &c. fol. 69. a. 22 E. 4. fol. 35.*

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And where the Affrayers fly into another County, the Constable seeing this, may freshly pursue, or cause them to be pursued, and to be taken there: but then in such case the Constable can meddle no further (but as every private man may do) to carry them before some Justice of Peace of the County where they are taken, to cause them to find Sureties for the Peace. *Crompt. 146. b. & 172. b. Dalt. cb. 8. fol. 34. cb. 118. fol. 340. Plo. 37.*

But in case where the Affrayers flee into a Franchise only within the same County where the Affray was, there the Constable, seeing this, may freshly follow and take them out of such Franchise, *Crompt. 146. Dal. J.P. cb. 8. fol. 34.*

Note that after the Affray be over, the Constable without a Warrant cannot arrest the Affrayers, except some person be in peril of death by some hurt there received; but before
the

the Affray begun, and during the time thereof he may Arrest them without Warrant. 28. H. 8. Bro. *faux Impr.* 6. Dalt. J. P. ch. 8. fol. 34. Kitchen 69. b. Where the Affray is made out of the presence or sight of the Constable, and one cometh to the Constable and telleth him of it, and wisheth him to go and see the Peace kept, and the Constable will not, in such case it is held by some that the Constable shall not be fined by the Justices at their Sessions upon presentment thereof by the grand Enquest; but *quære* thereof, for it is against his Oath if he do not see the Peace kept, *Crompt.* 146. Dalt. J. P. chap. 8. fol. 34.

Note that it is properly no Affray, unless there be some Weapons drawn, or some stroke given or offered to be given, or other attempt to such purpose: for if men shall contend only in hot words, this is no Affray, neither may the Constable for words only lay hands upon them, unless they shall threaten to kill, beat, or hurt one another, and then may the Constable arrest such persons, and carry them before a Justice of Peace, to find Sureties for the keeping of the Peace; and yet such threatening as aforesaid, is no Affray. Bro. *faux Impr.* 6. *Crompt.* 135. Dalt. J. P. ch. 8. fol. 34. & 158.

If an affray or an assault be made upon the Constable himself, he may not only defend himself, but also put the parties offending in the Stocks, till such time as he can carry them to a Justice of Peace, or to the Goal; and if he be not able to arrest them himself, he may then call others to his assistance, who may

may justifie to arrest the Parties. 5 Hen. 7.
6 Bro. faux Impr. 41. 3 Hen. 4. fol. 10. &
Dalton's J. P. chap. 6 fol. 35. Kitchen pag.
69. a.

CHAP. III.

The Constables Office about Alehouses, &c.

IF the Constables and Churchwardens upon a Warrant directed to them from one or more Justices of the Peace, against an Inn-keeper, Alehouse-keeper or Victualler, for suffering tipling in his House, or for his measure of Ale and Beer, do not restrain and levy the forfeitures according to the Statute; that is 20 s. for selling less than a full Ale quart of the best Ale or Beer, or two quarts of the small for one penny, and 10 s. for Tipling in his house; or if there be no distress to be found, if the Officers neglect by the space of twenty days to certifie the same default of distress to the Justices, in any of these Cases the Officers forfeit forty shillings to the use of the Poor, to be levied by distress on their Goods by Warrant made to any indifferent person, from any one or more Justices of the Peace under their Hand and Seal, and for want of Distress, the Delinquents by any such Justice of the Peace may be committed to the Goal, there to remain until they have paid the same forfeitures; but note the distresses in all these cases must be kept six days, and if the Parties do not within that time pay the forfeitures, then the Distress is to be

be apprised and sold, and the *overplus* returned to their owners, *Wingate Abr. Stat. Title Ale-houses, &c.* 1 *Jac. ch.* 1. 1 *Car. 1. ch.* 4. *Daltou's J. P. ch.* 7. fol 28. *Young's Vade Mecum, Sect.* 1, 2, 3.

Or if the Constable, or other inferior Officer of the Parish, shall neglect to execute the Justices Warrant against Townsmen or others, for Tipling in any Inn, Alehouse, or Visualling house, or against men for being drunk, that is 3 s. 4 d. for Tipling, and 5 s. for being drunk, to be levied by Distress on the Offenders Goods, and sale thereof after six days default of payment, rendring the overplus to the owner, and for want of distress, and not being able to pay, the Tipler is to be set in the Stocks for the space of four hours, and the Drunkard six hours, and if in any of these cases the Constable neglect to do his duty, he forfeits ten shillings to the use of the Poor, to be levied upon his Goods by distress and sale as aforesaid. These offences are to be enquired of within six months after they are committed: And all Constables, Churchwardens, Headboroughs, Tythingmen, Alecunners, and Sidemen, may be charged on their Oathes to present the said Offences. 4 *Jac. ch.* 3. 21 *Jac. ch.* 7. *Young's Vade Mecum, Sect.* 4, 5. *Dalt, J. P. ch.* 7. fol. 28. *Wingates Abr. Stat. Title, Alehouses, &c.*

If any keep an Alehouse without Licence, he forfeits Twenty shillings to the use of the Poor, which the Constable and Churchwardens (upon Warrant from the Justice before whom the offence is proved) shall levy by distress upon the offenders Goods, and for default

default of payment within three days after the said distress taken, then the same is to be sold for to satisfy the penalty, rendering the overplus to the owner; and in case the Delinquent hath not wherewithal to satisfy, the said Justice may commit him to the Constable to be openly whipped, and if the Constable neglect to execute the Warrant, or do refuse, or do not execute upon the said offender the punishment of whipping, then the Justice may commit the Constable to the Goal without Bail, there to remain until the said Offender shall be by him punished as aforesaid, or until the Constable shall pay 40 s. to the use of the Poor of the Parish, 3 Car. 1. ch. 3. *Wingate Abr. Stat. Tit. Alehouses, &c. Dalton's J. P. ch. 7. fol. 31, 32.*

If a common Inn-keeper or Alehouse-keeper will not lodge a Traveller, he offering to pay ready money for his victuals, then in such case the Constable may cause such Inn-keeper, Alehouse-keeper, &c. to be indicted at the Sessions or Assises, where he may be fined and Imprisoned, or the party grieved may have his Action of the case against the Inn-keeper or Alehouse-keeper; but note, they are not bound to lodge or find Victuals without ready money first paid, if it be required. *Co. 9. lib. Rep. fol. 87. b. 10 H. 7. 8. 4 H. 7. 22. 5 E. 4. 2. Dalton's J. P. ch. 7. fol. 28.*

CHAP. IV.

The Constables Office about Arms, &c.

IF any person shall ride or go armed offensively before the Kings Justices, or before any other the Kings Officers and Ministers during their Office, or in Fairs or Markets or elsewhere by Night or by Day in Affray of the Kings people, and breach of the Peace, or wear or carry any Guns, Daggers, or Pistols charged; in such case the Constable upon the sight hereof may seize and take away their Armor and other Weapons, and cause them to be apprized and answered to the King as forfeited, and carry them before a Justice to find Sureties for the Peace. 2 E. 3. cap. 3. 7 R. 2. 13. 20 R. 2. c. 1. 14 E. 3. fol. 33. Co. 3. part. Inst. fol. 162. Dalt. J. P. c. 9. fol. 35. & 195.

But note the Kings Servants in his presence, Sheriffs and their Officers, and other the Kings Ministers, and such as be in their Companies assisting them in the Execution of their Office, and all others in pursuing Hue and Cry, where any Felony or other offences against the Peace be done, may lawfully bear Armor or Weapons. 2 E. 3. cap. 3. Co. 5. Lib. Rep. fol. 72. in S. John's Case, 3 H. 7. fol. 1. Dalt. J. P. ch. 9. fol. R. 6.

All High Constables, Petty Constables, and other Officers within their several Parishes, are to be aiding and assisting to such persons as shall have Warrant from the Lord Lieutenants, or any two of their Deputies under their

their Hands and Seals to search for and seize all Arms in the custody and possession of any person and persons whom the said Lieutenants or their Deputies shall judge to be dangerous to the Peace of the Kingdom, and to secure the same, and give account thereof to the said Officers; but such search is to be made in the day time only between Sun rise and Sun set, and not otherwise, unless it be in Cities and their Suburbs, Towns Corporate, and Market Towns, or houses within the Bills of Mortality, in which places search may be in the night, if the Warrant so direct. No dwelling house of any Peer of the Realm is to be searched, unless the Warrant be from the Kings Majesty under his Sign-Manual, or in the presence of the Lieutenant or one of the Deputy Lieutenants of the said County or Riding. And in all places and houses aforesaid, where search is made, in case of Resistance to enter with force; and such Arms so seized, where the Lieutenants or their Deputies, or any two of them think fit, may be restored to the owners again. 14 Car. 2. c. 3.

CHAP. V.

*The Constables Office about Foreign Bone-Laces,
Cut-work, Imbroidery, &c. and French
Goods.*

THE Constables upon Warrant to them directed from the Justices of Peace, or Chief Officers of the Cities, Towns Corporate, &c. are to search within their respective Coun-

Counties, Cities, Towns, &c. in the Shops being open, Ware-houses and dwelling-house of such person or persons, who shall be suspected to have any Foreign Bone-Laces, Cut-works, Imbroideries, Fringes, Bandstrings, Buttons, or Needle-works made of Thred, Silk, or any or either of them, made in the parts beyond the Seas, and where they find any such to seize the same. 14 Car. 2. ch. 13.

No French Wine, Vinegar, Brandy, Linen Cloth, Silks, Salt, Paper, or any Manufactures, made of or mixed with Silk, Thred, Wool, Hair, Gold or Silver, or Leather, being of the Product or Manufacture of any the Dominions of the French King, shall after the 20th. of March. 1677. during the Term of three years, or before the end of the first Session of Parliament next after the expiration of the said three years to be imported into England, Wales, or Town of Berwick, or Isles of Jersey, Guernsey, Alderny, Sark, or Isle of Man, mixt or unmixt with any Commodity of the Product of any other Countrey: such Importation and vending the said Commodities imported contrary to this Act, being by the said Act declared a common Nufance: And such Goods are to be seized, and carried into his Majesties Warehouse, and the Vessel stayed till search can be made: And an Information shall be the next Term, or sooner exhibited into the Kings Bench or Exchequer; and if the Jury find that they are French Goods, Judgment shall be, That the Wines and Brandy shall be staved and spilt upon the ground, and the other Commodities publickly burnt and destroyed: The Importers to forfeit

forfeit the value: They in whose hands they shall be seized, or who sold them, the like for the first offence: And for the second offence the like Forfeiture, and to be incapable to exercise any Trade, or execute any Office or Employment about any part of the Kings Revenue; and if he, who sells or exposes them to sale be a Shopkeeper, he shall over and above the Penalties aforesaid, be imprisoned Twelve months: One moiety of the Forfeitures to be to the Poor of the Parish, where the Goods shall be first landed or seized; the other to the Informer, to be recovered by Action of Debt, Bill, Plaint, or Information in any of his Majesties Courts of Record. Stat. 29 & 30 Car. 2. ch. 1.

If such Commodities be brought in as Reprizal or Rescue, they shall not be landed or sold, under the Penalties aforesaid, but being adjudged good Prize, shall be exported again to any foreign Market in the same Vessel: if any such Commodities during the said three years: and after the first of May 1679. (at what time soever imported) shall be found, vended, or uttered, they shall be seized, and be subject to the like Information, Judgment and Execution; and the Person in whose custody they shall be found, or that shall vend them, subject to the like Penalties as aforesaid: The Informer who after seizure or stay of the Goods fraudulently delay's the Prosecution, shall forfeit 500 l. one moiety to the Poor of the Parish, where he was resident, the other to him that shall inform against him, to be recovered as aforesaid. 29 & 30 Car. 2. chap. 1.

All.

All Officers of the Customs, Sheriffs, Mayors, Bailiffs, Constables, and other Officers are Injoynd to be aiding and assisting in the due execution of this Act. 29 & 30 Car. 2 chap. 1.

CHAP. VI.

The Constables Office about Irish Cattel.

IF any great Cattel, Sheep or Swine, or any Beef, Pork, or Bacon, (except such as is for the necessary Provision of the respective Ships or Vessels in which the same be brought, not exposing the same or any part thereof to sale) shall by any wise whatsoever be Imported or brought from *Ireland*, or any other Part beyond the Seas into the Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick upon Tweed*; in such case the Constable, Tythingman, Headborough, Churchwardens, or Overseers of the Poor, or any of them within their respective Liberties, Parishes or Places, may take and seize the same, and keep the same during the space of eight and forty hours, in some publick or convenient place where such seizure shall be made, within which time, if the owner or owners, or any for him or them shall make it appear unto some Justice of Peace of the same County where the same shall be so seized by the Oath of two credible Witnesses that the same were not imported from *Ireland*, or from any other place beyond the Seas, (except the Isle of *Man*) then the same, upon the

the Warrant of such Justice of Peace, is to be delivered to the owner or owners without delay. 18 Car. 2. ch. 2.

But in default of such proof and Warrant, then the same to be forfeited and one half thereof to be disposed to the use of the Poor of the Parish where the same shall be so found and seized: and the other part thereof to his or their own use that shall so seize the same. 18 Car. 2. ch. 2.

Such Cattel as are imported from the *Iste of Man*, (before excepted) into *England*, &c. are not to exceed the number of six hundred in one year, and they are to be of no other breed than of the breed of the *Iste of Man*, and all to be landed at the Port of *Chester*, or some of the members thereof, and not elsewhere. 18 Car. 2. ch. 2.

This Act was to continue for seven years, and from thence to the end of the first Session of the next Parliament: And is now by the Statute of 32 Car. 2. ch. 2. revived and made perpetual.

But these former Remedies not proving so effectual for the prevention of the Transporting of the Cattel aforesaid, it is further provided, That whensoever, and as often as it shall happen, either through any fraudulent agreement, or unfaithful Connivence of any Constable, Headborough, Tythingman, Churchwarden, or Overseer of the Poor, or that it shall happen any otherwise howsoever, that any great Cattel, Sheep, Swine, Beef, Pork or Bacon, after the first Seizure of them or any of them, by Virtue of the aforesaid Act, shall be driven, brought, carried
into

into, or found in any other Parish or Place, than where the same shall be first seized as aforesaid; That then, and so often, and from time to time, it shall and may be lawful to and for the Constable, Tythingman, Headborough, Churchwarden, or Overseer of the Poor of every or any such other Parish or Place, where such great Cattel, Sheep, Swine, Beef, Pork or Bacon, shall be brought, driven, or carried into, or found as aforesaid, to seize, take, and dispose of the same and every or any of them as forfeited, The one Moiety thereof to the use of the Poor of such other Parish or Place where such Seizure shall be made, the other to the Use of such Officer or Officers who shall seize the same as aforesaid; any other or former Seizure or Seizures, in any other Parish or Parishes, Place or Places, notwithstanding. *Stat. 20. C. 2. ch. 7.*

And now by the Statute of 32 Car. 2. ch. 2. it is further provided, that any person may make such Seizures as well as the Constables, or other Officers or Inhabitants: And that to prevent fraudulent Seizures, and Compositions, the Seisors shall within six days after conviction and forfeiture, cause the said cat-tel, Sheep, and Swine, to be killed; and the Hides and Tallow shall be to the Seizor, and the Remainder to be distributed by the Churchwardens and Overseers, amongst the Poor of the Parish; where any such great Cattel, Sheep, or Swine shall be imported or found.

The Seizor, Churchwarden or Overseers, failing in his duty, shall forfeit forty shilling, for every one of the great Cattel, and ten shillings

Shillings for every Sheep or Swine, which should have been so killed and distributed; one moiety to the Poor of the said Parish, the other to the Informer, to be levied by distress and sale of the Offenders Goods, by Warrant from any one Justice of Peace; and for want thereof the Offender to be committed to Goal for three months without Bail.

Mutton and Lamb imported shall be subject to the like Seizure, and the Importers and Sellers to the like Penalties, as for Importation of Beef, Pork or Bacon: And the like of Butter and Cheese imported from *Ireland*.

If any great Cattel, Sheep, or Swine, which have been seized, be found alive in any other Parish or Place, they are to be seized again and killed to the benefit of the Seizor, and the Poor of that Parish or Place in manner aforesaid.

English or other Cattel, intermixt with Irish Cattel, shall be deemed Irish in all respects. 32 Car. 2. ch. 2.

CHAP. VII.

The Constables Office about Chimney-Money.

THE High Constables and petty Constables Duties about Chimney-money by the 14 Car. 2. c. 10. and the 15 Car. 2. c. 13. is now much altered, and particular Officers appointed for that purpose. 16 Car. 2. ch. 3.

All Justices of Peace, Chief Magistrates, Treasurers, and Under-Treasurers, Constables, and other his Majesties Officers are within

within their several Limits and jurisdictions to be aiding and assisting to his Majesties Officers appointed for the collecting of the duty of Heath-money, 16 Car. 2. ch. 3.

The Officers appointed by his Majesty for the Chymney money once every year, being accompanied with the Constable, or Tything-man, Treasurer, or Under-Treasurer, or other publick Officer of the place, and in all Parishes and Places where there are no Constables, Tything-men or other publick Officers as aforesaid, there without any such assistance, may enter in the day time into a dwelling or other House, Edifice, Lodgings, and Chambers in any of the Inns of Court, or Chancery, Colleges, and other Societies, to search and examine whether there be any more Fire-hearths and Stoves in the same then were formerly returned or certified, and what are increased and decreased since the last Certificate, and if they find any variance in the number returned, both the Officer and Officers appointed by his Majesty, and the Constable or Tything-man, or other Officer aforesaid, are to certify the same under his and their hands to the Clerk of the Peace, &c. 16 Car. 2. ch. 3.

If the party after Demand made by his Majesties Officers, or their Deputies at the House, Chamber or Place where the duty shall arise or grow due, make default or refuse to pay by the space of one hour after such demand, then the Officer or his Deputy may at any time with the assistance of the Constable, Tything-man, or other Officer as aforesaid, in the day time levy the said duty and all the Arrears thereof, by distress and sale of the Goods

Goods of the party or parties so refusing or making default, rendering the overplus to the owners, over and above the duty and Arrearages, and necessary charges of taking the Distress, which charges are not to exceed one moiety of the duty and Arrearages. 16 Car. 2. ch. 3.

Note, that no Arrearages of Hearth-money are to be distreined after the space of two years next after such duty becomes due: and if any violence, opposition, or injury be done by any person or persons to any of his Majesties Officers or their Deputies in the due Execution of their Office, and the same proved by Oath before any one Justice of the Peace, or Chief Magistrate, &c. such Justice or chief Magistrate, &c. if they think fit, may send the Offender to the Common Goal for any time not exceeding one month. 16 Car. 2. c. 3.

The Constables are to have two pence in the pound paid them by the Collector to whom they pay the Chimney-money by them collected within their Constableries, and are to pay nothing to the Collectors for their Acquittances. 16 Car. 2. c. 3.

CHAP. VIII.

The Constables Office about Conventicles.

THE Statute of 16 Car. 2. ch. 4. against Conventicles is now expired.

By the Stat. of 22 Car. 2. cap. 1. made against Seditious Conventicles; every Constable, Headborough, Tythingman, Churchwarden, and Overseers of the Poor, are authorized and required

quired to levy the fines assessed by the Justice of Peace, upon those who shall be present at unlawful Conventicles, upon their Goods and Chattels, having first received a Warrant under the Hands and Seals of one or more Justices or Chief Magistrate, and forthwith deliver the money so levied to the same Justice of Peace, or chief Magistrate. And by Warrant from one or more Justice or Justices, or chief Magistrate, and respective Constables, Headboroughs and Tythingmen (Overseers not named) may with what aid, force and assistance they think fit, after refusal or denial to enter, break open into any house or other place, where they shall be informed any Conventicle is held, as well within Liberties as without, and take into their Custody the persons there unlawfully assembled, to be proceeded against according to this Act.

No Peers house is to be searched, unless in presence of a Lord Lieutenant, or two Justices of Peace, whereof one to be of the *Quorum*.

If any Constable, Headborough, Tythingman, Churchwarden, or Overseer of the Poor, shall know or be credibly informed of any Conventicle within his Precinct, and shall not thereof inform some Justice of the Peace or chief Magistrate, and endeavour the conviction of the parties, but neglects his Duty, he forfeits five pound, to be levied on his Goods: And any person sued for acting by this Law, may plead the General Issue, and give the special matter in Evidence, and shall recover treble costs. 22 Car. 2. ch. 1.

CHAP. IX.

The Constables Office about Clothiers.

THE Constables and other Officers, upon request to them made, are to be aiding and assisting to the Wardens and Assistants for regulating the Trade of Worsteds and other Stuffs called *Norwich Stuffs*, made within the City of *Norwich* and County of *Norfolk*. 14 Car. 2. ch. 5.

They are likewise to be (as often as they shall be thereunto required) aiding and assisting to the President, Wardens, and Assistants, for Regulating the making of *Kidderminster Stuffs*, within the Burrough and Parish of *Kidderminster*. 22 & 23 Car. 2. ch. 8.

Note, that the Act of 13 & 14 Car. 2. ch. 32. about the Manufacture of Cloth within the West-Riding of the County of *York*, is expired.

The makers of Cloth must pay to their Carders, Spinners, and other Labourers, their wages in ready money, and not in Wares, and shall deliver them Wool according to due weight on pain to forfeit six pence for every default; and the Carders, Spinners, Weavers, Fullers, Shear-men, and other Labourers are to do their work faithfully on pain to forfeit double damages to the party grieved. 4 E. 4. ch. 1. Fitz. J. P. 203. *Wingate's Abr. Stat. Tit. Drapery*.

And every Justice of Peace, High-Constable, or Steward of Leet, out of a Corporation, and in a Corporation every Head-officer where no Master is, and every Master shall hear and deter-

mine the complaints of every such Clothier or Draper, as well for Non-payment of the Labourers wages, as the Damages aforesaid, by due examination of the parties, for which said damages they have power to commit the offenders to the Goal, until the party grieved shall be satisfied. 4 E. 4. ch. 1. *Wingates Abr. Stat. Tit. Drapery.*

The High Constables also, or Justices of the Peace, have power to enter into any House, Lands, or other place, to search for any Tanners, Ropes, Rings, Headwrinches, or other Engines for stretching of Cloth, and if they find any, to deface them; and if the owners shall afterwards use them again, then these Officers may take and sell them, and give the money to the poor. 39 Eliz. ch. 20. *Wingate's Abr. Stat. Tit. Drapery.*

CHAP. X.

The Constables Office about the Customs.

BY the 14 Car. 2. such person or persons as are authorized by Writ of Assistance, under the Seal of his Majesties Court of Exchequer, are to take a Constable, Headborough, or other publick Officer inhabiting near the place, and in the day time are to enter and go into any House, Shop, Cellar, War house, Room, or other place, and in case of Resistance, break open the Doors, Chests, Trunks, and other Package, there to seize, and from thence to bring any kind of Goods, Merchandize whatsoever, prohibited and uncustomed, and to put and secure the

the same in his Majesties Store-house in the Port next to such place where the seizure shall be made. 13. *Car. 2. ch. 11.*

All Officers belonging to the Admiralty, Captains, and Commanders of Ships, Forts, Castles and Blockhouses, and all Justices of Peace, Mayors, Sheriffs, Constables and Headboroughs, and other the Kings Majesties Officers and Subjects whatsoever, whom it may concern, are to be aiding and assisting to all and every person and persons which are or shall be appointed by his Majesty to manage his Custom: and if the Officers of the Customs, or any acting in aid of them, shall be sued, indicted, prosecuted or molested, such persons, their Heirs, Executors, and Administrators, may plead the General Issue, and give the several Acts relating to the Customs, or any of them in Evidence, in any of his Majesties Courts of Justice. 14. *Car. 2. ch. 11.*

The Statute of 12. *Car. 2. ch. 19.* about Customs, was to continue but to the end of the first Session of the next Parliament, and is now Expired.

CHAP. XI.

The Constables Office about Setting-Dogs, &c.

EVery Constable or Headborough (upon a Warrant under the hands of two or more Justices of the Peace) hath power to search the houses of persons suspected to have any Setting-Dogs, or any manner of Nets, for taking of Pheasants or Partridges, and the Dogs and Nets there found, to take, carry away, detain, kill, destroy,

and cut in pieces. *Dalt. J. P. ch. 37. fol. 90.*
7. Jac. c. 11.

And yet note, that they cannot by force of the Statute of *7 Jac.* search the houses of such as have Free Warren, or are Lords of any Manor, or have Freehold of Forty Pounds by year or more, of some Estate of Inheritance, or Eighty pounds by the year for Term of Life, or be worth in Goods Four hundred pound, for such persons might by that Act have kept Nets or Dogs to take Phealants or Partridges, in their own grounds or precincts. *7 Jac. ch. 11. Pasch. J. P. ch. 37. fol. 90.*

But now by a later Statute, *viz. 22 & 23 Car. 2. ch. 25.* None shall keep for themselves or any others, any Guns, Bows, Dogs, Nets, or other Engines, for the taking or killing of Conies, Hares, Pheasants, Partridges, or other Game, unless he hath Lands and Tenements, or some other Estate of Inheritance, or for term of Life, of the cleer yearly value of One hundred pounds, or Lease or Leases of ninety nine years, or for some longer Term of the cleer yearly value of One hundred and fifty pounds, or be the Son and Heir apparent of an Esquire, or other Person of higher degree, or Owner or Keeper of some Forest, Park, Chase, or Warren stocked with Deer, or Conies, which Owners or Keepers are allowed, to have them for their necessary use, in respect of such Forests, Parks, Chases, or Warrens.

And the Lord of any Mannor or Royalty, not under the degree of an Esquire, may give Authority to the Game-Keeper within his Mannor, or Royalty, and any Justice of Peace by Warrant under his Hand and Seal to any
 other

other person or persons in the day time to search the Houses, Out-houses, or other places of persons so prohibited as aforesaid, and upon good ground suspected to have such Guns, Bows, Dogs, Nets, or other Engins, and to seize them for the use of the Lord of the Manor or Royalty, or otherwise to destroy them. 22 & 23 Car. 2. ch. 24.

C H A P. XII.

The Constables Office about Escapes and Arrests.

If a Constable, or any other, which hath a Prisoner under Arrest for Felony, or Suspicion thereof, voluntarily letteth or suffereth the Prisoner to go where he will at liberty (though this be breaking of Prison) yet it is Felony in the Goaler, Constable, or him that letteth such Prisoner escape; but it is no Felony in the Prisoner; but if such a Prisoner shall escape by the negligence of his Keeper, and against his will and Knowledge, then it is Felony in the Prisoner, because a breach of Prison, and the Goaler, Constable, &c. may be Fined by the Judges or Justices for such Escape. Bro. Coron. 112, 224, 316, 454. & Bro. Escape 31. Stamford fol. 32, 44. Aff. Pl. 18. Dyer fol 99. Dalt. J. P. c. 106. fol. 272.

If the Constable, or other Officer, shall voluntarily suffer a Thief, being in his custody, to go into the Water, and drown himself, this Escape is Felony in the Constable, and the drowning makes the Thief *Felo de se*; but if the

Thief shall suddenly (without the assent of the Constable) Kill, hang, or drown himself, this is then but an negligent Escape in the Constable, and Fineable as aforesaid. *Dalt. J. P. ch. 106. fol. 272,*

The voluntary letting of a Felon to escape before he be arrested for the Felony, is no Felony in the party that suffereth him to escape; but if the Constable suffer one to escape when he knows he hath committed a Felony; in such case he may be indicted and Fined for suffering the escape; and *quære* if it do not make him Accessary to the Felony. 9 H. 4. 1 *Stam. 32. Bro. Escape 43. Dalt. J. P. c. 106. f. 272.*

If a man be arrested for suspicion of Felony by the Constable or other person, and after they shall have Intelligence that there is no such Felony committed, here they may set the party Arrested at Liberty again, and they shall not be charged with the Escape; for there can be no Felon, where there is no Felony committed. 13 H. 7. 7. & *Crompt. 40. Dalt. J. P. c. 106. fol. 275.*

But if a Felony be committed indeed, and one is Arrested for the same, or for Suspicion thereof; though the Constable or other person that made the arrest, shall after have certain intelligence and knowledge that the Party arrested is not Guilty of the Offence; yet they may not set the party at liberty, for he must not now be delivered by any mans discretion, but by due course of Law, otherwise it will prove a voluntary Escape, and so Felony, or at least Fineable. *Crompt. 40. 44. Aff. 12. Dalt. J. P. c. 106. f. 275.*

In all cases of Misdemeanor, where a private person hath Authority to Arrest any for any Offence,

offence, it is required for to carry and deliver the Prisoner to the Constable, or some other Officer. *Vide* 20 E. 4. 6. *Dalt. J. P. c.* 118. fol. 338.

But in case where a Justice of Peace, Constable, or other Officer comes to a Felon to arrest and take him, and he perceiving, flies into another County before he can be taken, in such case the Felon shall be carried before some Justice of Peace of that County where he is taken, and must be committed to the Goal of that County, although the Felon were committed in another County. *Bro. faux Impr.* 25. 11 E. 4. fol. 5. a. *Dalt. J. P. ch.* 118. fol. 340.

If a man be Arrested for Felony, and the Constable carry him to the Goal, and the Goaler will not receive him, then the Constable must bring him back to the Town where he was taken, and that Town shall be charged with the keeping of him until the next Goal Delivery, by the opinion of the Book, 10 H. 4. or the Constable may in such case keep the Prisoner in his own house, as it hath been held by some. See 11 E. 4. *Bro. faux Impr.* 25. in fine *Dalt. J. P. ch.* 118. fol. 340, 341.

But in such case where the Goaler refuses to receive a Prisoner as above said, or takes any thing for receiving him, upon Information thereof to the Justices of the Goal Delivery, they will punish him for his offence, 4 E. 3. c. 10. *Position Prison* 6. *Dalt. J. P. ch.* 118. fol. 341.

The Constable, or other Officer, that shall Imprison in the Stocks any Felon, may lock the Stocks, and if need be, may also put Irons on the Prisoner, and when he conveyeth him to the Goal, or to the Justice, he may pinion him.

or otherwise make him sure, so that he cannot escape. *Dalt. J. P. ch. 118. fol. 342.*

CHAP. XIII.

The Constables Office about Excise.

THose Officers under the Commissioners of Excise, called Gagers, are to have the Constable along with them, when they enter by night into the Houses of any Brewer, Inn-keeper, Victualler, &c. to Gage their Coppers, Fats, or Vessels; or to take an Account of their Beer, Ale, Worts, Perry, Syder, Strong-waters, Metheglin, Mead, Coffee, Chocolate, Sherbet, or Tee, brewed, made or distilled in the said Houses. *12 Car. 2.*

ch. 23, 24.

Such persons as shall be convicted before the Justices of Peace, or Commissioners of Excise, of any offence and Forfeiture within the Acts for Excise; the Constables, upon Warrant to them directed from the Justices of Peace, are to levy the penalties upon the Goods of the offenders by distress and sale thereof, rendring the overplus to the owner; and for want of distress, they are to carry the party to the Goal, there to remain till satisfaction be made. *12 Car. 2. ch. 23, 24.*

The Constables are also upon Warrant to them directed to Summon all Alehouse-keepers, &c. to appear before the Commissioners of Excise at such days and places as shall be appointed in the said Warrants from time to time.

C H A P. XIV

The Constables Office about Fish.

THE Constables and Churchwardens, by Warrant from any one or more Justices of the Peace (where any offence is committed in destroying the Spawn and breed of Fish, along the Sea-shore, or in any Haven or Creek, or within five miles of the mouth of any Haven or Creek, by Fishing with Nets of less Mesh than three Inches and an half between knot and knot) are to levy the penalty by distress and sale of the offenders Goods, rendring the overplus to the owners; the penalty is Ten shillings and forfeiture of their Nets. 3 Jac. c. 12. *Wingate's Abr. Stat. Tit. Tit. Fishers and Fishing.*

The Justices of Peace of the Counties of *Worcester, Salop, and Gloucester*, upon their own knowledge, or upon Information that any person hath made use of any Net, Engine or Device in the River of Severn, whereby any *Salmon, Trout, or Barbel*, under the length appointed by the Statute of 1 Eliz. shall be taken or killed; or hath fished with any Net for *Salmon, Salmon-mart, Salmon-Peal, Pike, Carpe, Trout, Barbel, Chub, or Grayling*, the mesh whereof is under two inches and a half square from knot to knot, allowing to each mesh four knots, or above twenty yards in length, and two yards in breadth, or above fifty yards in length, and six yards in breadth in the wing of the Net, in the said River from *Rippletotche Lake to Gloucester Bridge*, or above sixty yards in length below *Gloucester Bridge*, and six yards in breadth in the wing of the Net,

er hath fished with two of those Nets fixed together, or used any Net or device for taking the fry of Eels or whereby the Spawn of Fish shall be destroyed, shall issue out Warrants under the Hands and Seals of any two of them in their respective Counties, to the under-Conservators of the said River, or to any Constable, Tyrthingman or Headborough, to search in the day time in all suspected places, for such unlawful Instruments, and to seize them, and bring them to the Quarter Sessions to be burnt or destroyed. 30 Car. 2. ch. 9.

If any Ling, Herring, Cod, or Pilchard, Fresh or Salt, dried or bloated, or any Salmon, Eel or Congers, taken by Foreigners, Aliens to the Kingdom of England, shall be imported, uttered, sold, or exposed to sale in this Kingdom; in such case the Constable, Headborough, &c. or any other person may take and seize the same, and one half thereof must go to the use of the Poor of the Parish where the same is so found and seized, and the other half to the use of the Party that seizes the same. 18 Car. 2. c. 2.

CHAP. XV.

The Constables Office about forcible Entries, &c.

IF a Constable, or any private person of the same County do refuse to attend and assist the Justices of Peace, upon request to remove a Force, or to convey the parties to the Goal, he may be imprisoned for his neglect, and make Fine

to the King, 15 R. 2. ch. 2. Dalt. J. P. c. 22.
f. 57.

CHAP. XVI.

The Constables Office about Hedge-breaking, &c.

AL L such lewd persons as are convicted before a Justice of Peace, for taking away any Corn growing, Robbing of Orchards, breaking Hedges, &c. and their Procurers, and Receivers knowing the same, if they cannot give the Parties grieved such satisfaction as the Justice shall think fit, then the Justice may commit him to the Constable to be whipped for the first offence, and the like pain for the second offence. And if the Constable or other Inferior Officer, do not by himself, or some other, see the same be done accordingly, then the Justice may commit such Officer to the Goal, there to remain without Bail, until the said offender be by the said Constable, or some other by his procurement, whipped as aforelaid, and this by the 43 El. ch. 7.

But now by the 15 Car. 2. every Constable, Headborough, or other person, in every County, City, Town-Corporate, or other place, where they shall be Officers and Inhabitants, have power to apprehend, or cause to be apprehended, such persons as they suspect, for having or carrying, or any wise conveying, any Burthen or Bundles of any kind of Wood, Underwood, Polcs, or young Trees, or Bark or Bast of any Trees, or any Gates, Styles, Posts, Pails, Rales, or Bedge.

Hedge-wood, Broom or Furze; and any Constable, Headborough, &c. by Warrant under the Hand and Seal of one Justice, &c. may enter into the Houses, Out-houses, Yards, Gardens or other places belonging to the houses of such persons as they suspect to have any Woods, Under-woods, &c. and wheresoever they shall find any, such to apprehend, or cause to be apprehended the persons suspected for cutting the same, and those also in whose houses or other places belonging to them any such Wood, Underwood, &c. shall be found, to carry before some Justice of Peace of the County, City, &c. and if the party cannot give a good account to the Justice how he came by the same Wood, &c. by the consent of the owner, such as to satisfy the Justice, or shall not within such time as the Justice appoints, produce the party of whom he bought it, or some other credible witness to depose upon Oath such sale of the said Wood, &c. then such person shall be deemed convicted of the cutting and spoiling Wood, &c. within the meaning of the Statute of 43 *Eliz.* aforesaid; and for the first offence, if they do not give the owner such satisfaction, and within such time as the Justice shall appoint, and pay over and above down presently to the use of the Poor of the place where the offence is committed, such a sum of money as the Justice shall appoint, not exceeding ten shillings, then the Justice may commit the party offending to the House of Correction for so long time, not exceeding one month, as he shall think meet, or otherwise to be whipped by the Constable or other Officer; and if such person offend again, and be convicted as before, then he must be sent

sent to the House of Correction for one month, and there held to hard labour; and if he offend the third time, and be convicted, then he must be used as an incorrigible Rogue, 15 Car. 2. ch. 2.

And if any person buy any burthens of Wood, Poles, Sticks, Underwood, &c. of any who may justly be suspected to have stoln, or unlawfully come by the same; then upon complaint to a Justice of Peace, Head-Officer, &c. if upon Examination by Oath, &c. he find that the same were bought of such person as aforesaid, then the Justice may order the party that bought the same to pay the treble value of the Wood, &c. to the party from whom they were stoln or unlawfully taken; and in default of present payment, the Justice may issue out his Warrant to the Constable to levy the same by distress and sale of the Offenders Goods, rendering the overplus to the owner, and for lack of such distress, then to commit the party to the Goal at his own charge, there to remain one month without Bail. 15 Car. 2. ch. 2.

Note, that none is to be punished by this Law, who hath been punished by a former Law for the same offence, nor is any to be questioned for any offence within this Statute, unless it be within six weeks after the offence committed.

15 Car. 2. ch. 2.

CHAP. XVII.

The Constables Office about High-ways.

THE Constables and Churchwardens of every Parish shall yearly, upon *Tuesday* or *wednesday* in *Easter* week, call together a number of the Parishioners, and then make choice of two of the Parish to be Surveyors of the High-ways the Year following, who shall forthwith take that Office upon them, on pain to forfeit twenty shillings a piece, 2 & 3 P. & M. ch. 8.

The Constables and Churchwardens are then also to appoint six days betwixt that and the four and twentieth day of *June*, for the amendment of the High-ways, and to give publick notice thereof in the Church the next Sunday after. 2 & 3 P. & M. ch. 8. & 5 El. ch. 13.

Stewards in Leets have power to enquire after the breach of the Act of the 2 & 3 P. & M. about High ways, and to set Fines upon such as make default, at their discretion, and shall within six weeks after *Michaelmas* deliver Indented *Estreats* thereof under their Hands and Seals, viz. one part thereof to the Bailiff or High-Constable of the Liberty, and the other to the Constable and Churchwardens of the Parish where the default was made. 2 & 3 P. & M. ch. 8.

And in default of presentment thereof in Leets, the Justices of Peace in the Sessions shall enquire thereof, and set such Fines as they or two of them *quor. unus*, shall think fit; whereof the

the Clerk of the Peace shall deliver Indented Estreats under his Hand and Seal, within six weeks of *Michaelmas*, in like sort as aforesaid. 2 & 3 P. & M. ch. 8.

And these Estreats of the Stewards of Leets, or Clerk of the Peace, shall be a sufficient Warrant for the Bailiff or chief Constable to levy the said Fines by way of Distress; and if no Distress can be found, or the party do not pay the Fine within 20 days after lawful demand thereof, he or they shall forfeit double so much; all which Fines and Forfeitures shall be bestowed by the Constable and Churchwardens on the High ways in the same Parish. 2 & 3 P. & M. ch. 8. *Dalt. J. P. ch. 26. fol. 71.*

And the Bailiff or High Constable is yearly, between the first of *March* and last of *April*, to render unto the Constable and Churchwardens to whom the other part of the Estreat was delivered, a true account of the Moneys received by them, on pain of forty shillings, and the said Constables and Churchwardens have power to call the Bailiff or High-Constable before two Justices of the Peace (*Quor. m.*) to pass the Account, who have power to commit such Bailiff or High-Constable, until they have satisfied all the Arrearages by them received. 2 & 3 P. & M. ch. 8. *Dalt. J. P. ch. 26. fol. 70.*

And upon passing such Account, every Bailiff or High-Constable shall have allowed Eight pence for their pains for every pound collected, and Twelve pence for the Fee for the Estreat delivered. 2 & 3 P. & M. ch. 8. *Dalt. J. P. ch. 26. fol. 70.*

Any two Justices of Peace, upon complaint to them made by the succeeding Constables and Church-

Churchwardens may call before them the precedent Constables and Churchwardens, and may take their accounts, and compel them, as aforesaid, to pay in all Arrearages in their hands. 2, & 3 P. & M. ch. 8. Dalt. J. P. ch. 26. fol. 71.

All Fines and Forfeitures assessed in the Sessions, upon the Stat. 5 El. about High-ways, must be Estreated by the Clerk of the Peace, and must be levied, accounted, and employed as is appointed by the 2 & 3 P. & M. ch. 8. 5 El. ch. 13.

The Surveyors upon Warrant from two Justices of Peace, are to levy by distress and sale of Goods, the Forfeitures of all such persons as offend against the 18 El. 10. in not Scouring their Ditches, &c. and if they neglect by the space of a year after the offence committed to levy the Forfeiture: Then the Justices may send to the Constable and Churchwardens to levy the same. 18 El. ch. 10.

By the Stat. 22 Car. 2. ch. 12. All Constables and Surveyors of the High-ways shall put in execution the Statutes for repairing and enlarging High-ways, and levy the penalties thereby imposed. And every Constable or Surveyor of the High-ways neglecting so to do, or wilfully suffering any Wagons or Carts to pass through his Limits, with any more Horses or Cattel, or in any other manner than this Act alloweth, upon conviction thereof by one Oath before one Justice, or the Justices own view, shall pay such fine (not exceeding 40 s.) as such Justice shall Assess.

All Actions brought against any person for acting by this Law, shall be laid in the proper County,

County, and Defendants may plead the General Issue, and recover treble Costs.

Enacted that after the 24th of July, 1670. No travelling Wagon, Cart, &c. in which any Burdens shall be carried, (except Carts used about Husbandry, and carrying Hay, Straw, Corn, unthrashed, Coal, Chalk, Timber for Shipping or Building, Stones of all sorts, Ammunition or Artillery for the King) shall be drawn or go in any Road or publick High-way, with above five Horse-beasts at length, and if any draw with more Horses or Oxen, he shall draw all two abreast except one Horse.

Every owner of any Wagon, Cart, &c. horse or beasts, shall forfeit for every offence 40 s. One third part to the Surveyors to amend the ways; one third part to the Overseers for the Poor; the last third part to him who shall discover the Offender; to be levied as the penalties against Constables, &c. for their neglects before mentioned.

The Surveyor upon neglect to come and labour, shall complain thereof to the next Justices, who upon Oath of one witness, shall levy for every day labour neglected 18 d. and for every Man and Horse 3 s. and for every Cart with two Men 10 s. for each day neglecting. 22 Car. 2. ch. 12.

CHAP. XVIII.

The Constables Office about Stoned-horses.

NOne ought to put to feed upon Forests or Commons (except they be Commons where Mares are not usually kept) any stoned-Horse, being above two years old, and not fifteen hands high from the lower part of the hoof to the upper part of the wither (every hand containing four Inches Standard measure) on pain to forfeit the same Horse. 32. H. 8. *ch.* 13.

If any Stoned Horse of lesser Stature be put to feed in any such Common (unless it be in Fens-grounds of the Isle of Ely, and of the Counties of Cambridge, Huntington, Northampton, Lincoln, Norfolk, or Suffolk, where they need be, but thirteen hands high) any man may seize them to his own use, so that first by the assistance of the keeper of the ground, or Constable, Bailiff, Headborough, or other such Officer of the Parish adjoyning, such Horse be brought to the next Pound, and there by such Officer, in the presence of three other sufficient men, he be measured and found lower than the Statute. 32 H. 8. *ch.* 13. 8 *Elix. ch.* 8. *Wingate Abr. Stat. Tit. Horses.*

Those that refuse to measure, or to be present at measuring do forfeit 40 s. a piece for every such default, to be divided between the King and Prosecutor; but note that an Horse that makes an Escape into such Common, shall not be questioned, so that he stay not above four days after notice

notice thereof at the owners house, or in his Parish Church. 32 H. 8. ch. 13.

Forests and Common grounds must be driven yearly at *Michaelmas* or within fifteen days after by the Keepers, Constables, or other Officers abovesaid, on pain of Forty shillings; and they have power to drive them at any other time of the year at their pleasure, and such likewise have the owners of the ground. And if upon the drift any unlucky Tits shall be found they may be killed. 32 H. 8. ch. 13. *Wingate Abr. Stat. Tit. Horses.*

Note, that this Act of the 32 H. 8. ch. 13. is not to extend to the County of *Cornwal.* 21 Jac. ch. 28.

CHAP. XIX.

The Constables Office about Hue and Cry.

THE Constables and Officers of every Town to which Hue and Cry shall come, ought to search in all suspected houses and places within their Limits, and as well the Officers as all other persons, which shall pursue the Hue and Cry may attach and stay all such persons, as in their search and pursuit they shall find to be suspicious, and thereupon shall carry them before some Justice of Peace of the County where they are taken, to be examined, where they were at the time of the Felony committed; and if any default be in the Officers, they may be fined by the Justices for their neglect. *Dalt. J. P. ch. 28. fol. 75.*

In

In case of a Robbery where Damages are recovered against one or some few Inhabitants of the Hundred, and the rest refuse to contribute thereunto, in such case two Justices of the Peace (*Quor. un.*) dwelling within or near the Hundred, may for the levying thereof set a Tax upon every Parish within that Hundred; according to which the Constables and Headboroughs of every Town must Tax the particular Inhabitants within their Constableries, and then levy the money upon such as refuse by Distress and Sale of their Goods, restoring them the overplus, and after the money is gathered, they are to deliver the same to the Justices, or some of them that made the Rate within ten days. 27 *Eliz. chap. 13. Wingate's Abr. Stat. Tit. Robbery. Poult. Hue and Cry 6. Dalt. J. P. ch. 47. fol. 132.*

The Hundred where fresh suit shall cease, shall answer half the Damages to the Hundred where the Felony was committed, to be recovered in any Court at *Westminster*, in the Name of the Clerk of the Peace of the County where the Felony was committed, and here the death or change of the Clerk of the Peace, shall not abate the Suit; to be taxed and levied as aforesaid. 27 *Eliz. ch. 13. Wingate's Stat. Tit. Robbery.*

Note, that the Hundred is not chargeable for the Robbery; when any one of the Malefactors shall be apprehended, or when the Action is not prosecuted within one year after the Robbery committed; and note also that the Hue and Cry shall not be deemed Legal, unless the pursuit be both by Horse and Foot. *Wingates Stat. Tit. Robbery. Bract. Lib. 3. fol. 121. Vide Co. 7. Lib. fol. 6, 7. 23 Eliz. Dyer fol. 370. Dalt. J. P. fol. 133.*

He

He that goeth not at the command of the Sheriff or Constable at the Cry of the County, that is upon Hue and Cry to Arrest Felons, after Attalnder, shall be grievously fined and imprisoned.

West. 1. ch. 9. Co. 2. Part. Inst. fol. 172. 2 H. 7. 15. b. 5 H. 7. 5. a.

CHAP. XX.

The Constables Office about Labourers and Servants.

THE Constable in the time of Hay and Corn Harvest, upon the request to him made by any man who wants Labourers; for the avoiding of the loss of Corn, Grain, and Hay, may cause all such Artificers, as he shall see meet to labour, to serve by the day for Mowing, Reaping, or otherwise, for the getting in of Corn or Hay abroad, according as they see them fit and able to perform; and if such persons shall refuse to work, after they are requested thereunto by the Constable, the Constable may then set them in the Stocks by the space of two days and one night; and if the Constable neglect to perform his Office, he forfeits forty shillings. *5 Eliz. ch. 14. Wingate's Stat. Tit. Labourers.*

And it is also provided by the said *5 Eliz.* that no person retained in Husbandry, or in any Arts appointed by that Statute, shall depart after the time of such Retainer expired, out of the City, Town, or Parish where he last served, to serve in another without a Testimonial, to wit, (in a Town Corporate) under the Hands and Seals of the Magistrate and two Householders

holders there, and in the Country under the Hands and Seals of the Constable or Constables, and two House-holders of the Town or Parish where he last served) which Testimonial must be registred by the Minister, for which he is to have Two pence, and then to be delivered to the party. *5 El. c. 4. Wingate's Stat. Tit. Labourers.*

But these Testimonials are now very seldom used, although the Statute be very penal in the same; for a Master that entertains a Servant without such a Testimonial forfeits five pounds, being thereof convicted upon Indictment taken in the Sessions of the Peace, and every Servant which sheweth not such a Testimonial to the chief Officer in a Corporation, or to the Constable or such other Officer, Minister or Churchwarden of the place where he is to dwell, may be imprisoned till he procure one, and if he produce one within one and Twenty days, next after the first day of his Imprisonment, or if he shall shew a false or counterfeit one, then he is to be whipped and used as a Vagabond. *Dalt. J. P. ch. 31. fol. 86. 5 Eliz. ch. 4.*

The

The Form of a Testimonial is after this manner:

Memorandum, that A. B. Servant to C. D. of Kirk-Leaventon, in the County of York, Husbandman, is Licensed to depart from his said Master, and is at his liberty to serve elsewhere according to the Statute in that case made and provided. In Witness whereof we have hereunto set our Hands and Seals this tenth day of November, in the 19th year of the Reign of our most Gracious Sovereign Lord King Charles the Second; Annoque Domini, 1667.

Jo. Metcalf Constable of Kirk-Leaventon.

*T. H. } Householders there.
G. B. }*

If it be one that lives with a Woman, then say *Is Licensed to depart from his Mistress or Dame as she is*; and if his Master be not an Husbandman, but a Taylor, Smith, Joyner, or some other Trade, then name him accordingly in the Testimonial.

CHAP. XXI.

The Constables Office about Malt-making.

THE Constables and Bailiffs of any Town, where any deceitful Malt shall be made, or mingled to be sold contrary to the Stat. 2 E. 6. may from time to time view and
D search

search all such Malt as shall be made, or put to Sale within any of their Towns, being evil made, or mingled with evil Malt contrary to the Statute; then the said Constable or Bayliff, so finding any such deceitful Malt, with advice of one Justice of Peace, may cause the same to be sold to such persons, and at such reasonable Prizes, as to the Discretion of the same Justice shall seem expedient. 2 E. 6. ch. 10. 21 Jac. ch. 28. 3 Car. 1. c. 4. Dalt. J. P. ch. 33. fol. 86, 87.

Now these deceitful Malts are of three sorts, to wit, such as are not well made, and that is where Barly Malt hath not in the making thereof in the Fat, Floor, Steeping, and Drying thereof, three weeks at the least, except it be in the months of *June, July, and August*, and in those months it must have seventeen days; for under such time it cannot be well made, nor wholesome. 2 E. 6. ch. 10. Dalt. J. P. ch. 33. fol. 87.

Secondly, no Malt ought to be put to sale, unless before the Sale thereof, by treading, rubbing and fanning it, they take out of every Quarter half a peck of dust, or more, on pain to forfeit 20 *d.* for every Quarter otherwise sold, to be divided between the King and the Prosecutor. 2 E. 6. 10.

And thirdly, If any Malts be put to sale, which are not well made, as aforesaid, according to the Limited time, or which are made of Mow-burnt or Spired Barly, or mixed of good and bad together, they forfeit for every Quarter so put to sale two shillings, to be divided between the King and the Prosecutor, as aforesaid. 2 E. 6. ch. 10. *Wingate's Stat. Tit. Malt.*

Note,

Note, that none shall be punished by this Act, who only make the Malt for their own provision, nor for the penalties of 20 d. or 2 s. per quarter, unless the Action be prosecuted within one year. *Wingates Stat. Tit. Malt. 2 E. 6. ch. 10. Dalt. J. P. ch. 33. fol. 87.*

CHAP. XXII.

The Constables Office about the Militia.

THE Constables by Warrant to that purpose, under the Hand and Seal of the Lord Lieutenant, or any three or more of the Deputy Lieutenants, are to levy such Sums, Forfeitures, Penalties and Payments, as shall be charged upon any person, or persons, within their several Constableries, for the furnishing of Arms, Horse, or Foot, or payment of Soldiers, &c. according to the Acts for the Militia. 14 Car. 2. ch. 3. 15 Car. 2. ch. 4.

And where sufficient Distress cannot be had, then the Lord Lieutenants, or their Deputies, by like Warrant to the Constable, may commit such Offender to Prison until he shall make satisfaction according to the said Forfeiture, Payment, or Penalty. 15 Car. 2. ch. 4.

CHA P. XXIII.

The Constables Office about Moss-Troopers.

THE Constables and other Officers within the Counties of Northumberland and Cumberland, upon Warrant from the Justices of the Peace, are to levy by Distress and Sale of the Parties Goods (rendring the overplus to the Owners) all such sums as shall be charged upon any person within their severall Constableries, by the Justices at their Sessions, for the safeguard of the Counties against the Injury, Theft, and Rapine of Moss-Troopers, and the Justices also may examine any Complaint against the Constables or other Officers that shall neglect, or refuse, or fail to give obedience to the Act, or do any thing in disturbance thereof, and bind over such person to the Quarter-Sessions to be proceeded against according to Justice. 14 Car. 2. ch. 22.

This Act is by the Stat. 29 & 30 Car. 2. ch. 2. revived, and to continue for seven years, and from thence to the end of the first Session of the next Parliament.

CHA P. XXIV.

The Constables Office about the disturbing of Ministers.

IF any shall purposely, without Authority, disturb a Preacher lawfully licensed in his Preaching

Preaching of the Word, Praying, or Administering of the Sacraments, either by their talking, laughing, humming, or the like, any one of the Constables or Churchwardens of the Place, may of his own Authority presently apprehend the party, and carry him before a Justice of Peace of the same County, who upon due accusation, may, if he think fit, commit him to safe custody, and within six days after, taking with him another Justice of the Peace they may examine the matter, and if by proof of two witnesses they find it true, they must commit him to the Common Goal, there to remain for Three months, and from thence to the next Quarter-Sessions, at which upon the parties Reconciliation, and entering into Bond, for the Good behaviour for one whole year (at the discretion of the Justices he may be released) but if he persist still in his obstinacy, he must remain in Prison still without Bail, until he shall reconcile, and be penitent for his offence. *1 Mar. Sess. 2. ch. 3. Wingate's Stat. Tit. Sacraments. Dalt. J. P. ch. 41. fol. 103.*

He that rescues an Offender in this kind, shall suffer like Imprisonment, and forfeit five pounds besides, and the Inhabitants that suffer such an Offender to escape, being presented before the Justices of Peace in the Sessions within the County, or Corporation where the escape was made, do also forfeit five pounds. *Wingate's Stat. Tit. Sacraments. 1. M. Sess. 2. c. 3.*

This Act does not restrain the Jurisdiction of the Ecclesiastical Law, howbeit none are to be punished twice for one offence; *Quere* of this Statute, for some think it is repealed by the *1 El. c. 2. vid. Lamb. 199. Cromp. 14. Dalt. J. P. c. 41. fol. 103, 104.*

CHAP. XXV.

The Constables Office about the Peace.

THe Constable may do what he can to keep the Peace, but he cannot take Surety of the Peace at the request of any man. *Crompt. 6. 12 H. 7. fol. 18. a.*

Note, that the breach of the Peace is said to be any injurious force or violence used against the person of another, his Goods, Lands, or other Possessions, whether it be threatening words or furious gestures, or force of the Body, or any other force used *in terrorem*. *Dalt. J. P. ch. 3. f. 9.*

The Constable or other Officer, before he Arrest the party upon a Warrant for the Peace, ought first to acquaint him with the matters, and withall, to require or charge the party in the Kings name, to go along with him before the Justice, to find and put in Sureties according to the Warrant; and if the party refuse either to go before the Justice, or to find Sureties; then the Officer by Vertue of the said Warrant may and ought forthwith Arrest him, and convey him to the Goal without carrying him to any Justice, and there the party is to remain until he shall voluntarily offer and find Sureties; and then such Officer must be at the next Sessions of the Peace, there to deliver his said Warrant in, and to certify all that he hath done thereupon. *Dalt. J. P. ch. 69. fol. 166. 5 E. 4. 13. Lamb. 92. Bro. faux Imp. 18. Crompt. 235.*

But if the party yield to go and find Sureties, then the Officer may not absolutely Arrest him, but yet the Officer is not bound to go up and
down

down with the party to find Sureties, but may keep him till he can procure Sureties to come to him; and if afterwards the party shall make any resistance, or shall offer to go his way, then the Officer may Arrest him, and carry him to the Goal, or else imprison him in the Stocks until he can provide aid to carry him to the Goal. *Dalt. J. P. ch. 69. fol. 166.*

If a Constable or other Officer, having a Warrant from a Justice of Peace to Arrest a man, to find Sureties for the Peace, do afterwards receive a *Supersedeas* out of the Chancery, &c. or from another Justice of the Peace of the same County, to discharge the same Surety of the Peace, and yet nevertheless the Officer will urge the Party to find Sureties by vertue of the Warrant, the party may refuse to give it, and if he be Arrested or Imprisoned for such refusal, he may have his Action of false Imprisonment against such Officer; for such *Supersedeas* is a Discharge of the former Precept or Warrant. *Limb. 101. Dalt. J. P. c. 69 fol. 168.*

If any shall abuse a Constable in doing of his Office, the Constable may have the party bound to his good Behaviour for it. *Fitz. Barr. 202. Crompt. 135.*

If a Constable be informed that a man and a woman be in Adultery or Fornication together, or that a man and a woman of evil Report are gone to a suspected house together in the Night, the Constable may take company with him, and if he find them so, he may carry them before a Justice of Peace, to find Sureties for the good behaviour. *13 H. 7. 10. Bro. Traverse 432 Dalt. J. P. ch. 75. fol. 189.*

CHAP. XXVI.

The Constables Office about Physicians.

THE Constables and other Officers in London, and within seven miles round, are to be aiding and assisting to the President of the Colledge of Physicians, and all persons authorized by the said Colledge for the due execution of the Laws and Statutes belonging to the said Colledge, upon Pain of running into contempt to the King. 1 Mar. Par. 1. Sess. 2. c. 9. *Wingate's Stat. Tit. Physicians.*

CHAP. XXVII.

The Constables Office about the Plague.

IF any person Infected, or being or dwelling in an house Infected with the Plague, shall be by the Constable commanded to keep his house, and notwithstanding shall wilfully go abroad, and converse in Company, having any Infecticus Sore on him, it is Felony, and if such person shall not have such Sore about him, yet for his offence he shall be punished as a Vagabond, by the appointment of any one Justice of the Peace, and further shall be bound to his good behaviour for one whole year. *Wingate's Stat. Tit. Plague. 1 Jac. c. 13. Dalt. J. P. c. 39. fol. 91.*

The

The Justices of Peace, or any one of them, and other Head Officers in Corporate Towns, within their several Limits, may appoint Searchers, Watchmen, Examiners, Keepers, and Buriers for the persons and places infected, and if any person infected, or dwelling and being in an house infected, shall contrary to the commandment or appointment of the Justice of Peace, or Constable, &c. wilfully attempt to go abroad, or to resist such their Keepers or Watchmen, then may such Watchmen with violence force them to keep their Houses, and if any hurt happen thereupon, the Watchmen shall not be impeached therefore. *1 Jac. ch. 13 Dalt. J. P. ch. 39. fol. 91. Cromp. 122. b. Wingates Stat. tit. Plague.*

If the Constable or other Officer wilfully neglect to levy the money (by Warrant from two Justices of Peace, upon the Statute for Relief of any Town infected with the Plague) by Distress and sale of the Goods of such persons as refuse or neglect to pay; then they forfeit for every such offence ten shillings to be employed to the said Charitable use. *Wingates Stat. tit. Plague. 1 Jac. c. 31. Dalt. J. P. c. 39. fol. 91.*

CHA P. XXVIII.

The Constables Office about conveying Prisoners to the Goal.

AN Offender which is to be conveyed to the Goal, if he be able, must bear all Charges, both of himself and of those that guard him;

him; and if he refuse to defray and bear the charges, or shall not at the time of commitment pay or bear the same, then upon a Warrant from a Justice of Peace, the Constable of the Township, where the Offender hath any Goods (being within the same County) may sell so many of the parties Goods as in the discretion of the Justice shall be thought sufficient to satisfy the said charges, the Apprizement to be made by four Inhabitants of the Parish where such Goods be, and the overplus to be rendred to the owner. 3 Jac. c. 10. Dalt. c. 43. fol. 104. Wingate's Stat. Tit. Prison.

And if the Offender have no Goods to satisfy the charges, then the charge must be born by the Town where the Offender was taken, which must be laid on by way of Tax by the Constable, Churchwardens, and two or three other honest Inhabitants, and where there are no such Officers then four of the principal Inhabitants of the Parish must lay on the Tax, which being allowed under the Hand of a Justice of Peace, every Inhabitant must pay their proportion according to the Tax; and if any refuse to pay, the Constable, Tythingman, or other Officer, by Warrant from a Justice of Peace, may levy the same by Distress (and after apprisement by four Inhabitants there) may sell the same, rendring the overplus to the party so refusing. 3 Jac. c. 10. Wingate's Stat. Tit. Prison.

Here if the Constable, or other Officer, that distrains, be sued, he shall plead Justification, and upon Verdict for, or Non suit of the Plaintiff, he shall recover Treble Damages, besides Costs of Suit. 3 Jac. c. 10.

CHAP. XXIX.

The Constables Office about Purveyance.

TH E Constables duty about Purveyance, upon the Stat. 36 E. 3. ch. 2. 5 E. 3 ch. 2. 20 H. 6. ch. 8. 23 H. 6. ch. 14. & 2 & 3 P. & M. ch. 6. is now of no use ; for it is enacted by the 12 Car. 2. That from henceforth no Money, or other thing shall be taken, rated or levied for any Provision, Carriages, or Purveyance for the King, his Heirs, &c. or for the King, Queen, or any of their Children, for the time being, or any of his Household, of any Timber, Fewel, Catel, Corn, Grain, Malt, Hay, Straw, Victuals, Cart or Carriage, Oxen, Horses, Ploughs, Wains, or other Carriages, or any other thing from any Subject, without the full and free consent of the owner first obtained without menace or Inforcement. 12 Car. 2. ch. 24. But this clause being found to be too prejudicial to the King, if the Subjects might not be forced at reasonable prizes to furnish the King with Carriages. The Statutes of 13 Car. 2. ch. 8. and 14 Car. 2. ch. 20. provided for necessary Carriages for his Majesty in his Royal Progress and Removals, and for Carriages by Land and Water for the use of his Majesties Navy and Ordnance ; but these two last mentioned Acts being to continue no longer than till the end of the first Session of the next Parliament, are now both expired, and the said clause of 12 Car. 2. is again become in force to all intents and purposes.

No Pre-emption shall be allowed to the King, his Heirs or Successors, nor to the Queen, or any of the Children of the Royal Family, in Market, or out of Market; but it is now lawful for all Subjects to dispose of their Goods as they please, and if any person shall make any Purveyance, or Impress any Carriages or other things by colour of any Authority of Purveyance for the King, &c. contrary to the 12 Car. 2. ch. 24. then two or one Justice of Peace next adjoining, and the Constable of the Place where such offence shall happen, at the request of the Party grieved, shall commit the Party offending to the Goal, until the next Sessions, there to be Indicted and proceeded against for the same, and the party grieved shall have his Action against the Offender, and therein shall recover treble damages and treble costs. 12 Car. 2. c. 24.

CHAP. XXX.

The Constables Office about Quarter Monies for Maimed Soldiers, Prisoners, &c.

THE Constables and Churchwardens are to levy by Distress and Sale of the Offenders Goods, such money as is rated upon any person within their Constabry, for the Relief of poor maimed Soldiers and Mariners, rendering the overplus to the Owner. 43 Eliz. 3. Wingates Stat. Tit. Captains and Soldiers.

And this money, so collected, is to be paid quarterly to the High-Constable of the Hundred

Ten

Ten days before every Quarter Sessions, or else the Constable and Churchwardens, their Executors, &c. forfeit twenty shillings : And the High-Constable is to pay in the Collection money (to the Treasurers appointed by the Justices) every Quarter Sessions, or otherwise he, his Executors, &c. forfeits 40 s. which forfeitures are to be levied and employed by the Treasurer for the encrease of their Stock for the uses aforesaid. 43 *El. c. 3. & Wingates Stat. Tit. Captains and Soldiers.*

The High-Constables are to make Quarterly payment, at every Sessions unto the Collectors appointed by the Justices, of all such Sums of money as are raised in every Parish, and paid to them by the Churchwardens or Constables, for the Relief of the poor Prisoners in the Goal, under pain of Five pounds. 14 *El. c. 5. Wingates Stat. Tit. Prison and Prisoners.*

The Constables and Churchwardens are to levy by Distress and Sale of the Offenders Goods, so much money as is rated upon any person within their Parish, for the Relief of the Prisoners in the Kings Bench and Marshalsey, and also of Hospitals and Almshouses, and relief of the Poor within their Country, rendring the overplus to the Owner ; and for want of such Distress, the Justice of Peace may commit the party to Prison, there to abide till it be paid, without Bail or Mainprize, which money the Churchwardens are to pay to the High-Constable ten days before the end of every Quarter-Sessions ; and if the Churchwardens, their Executors, &c. fail to pay this money, they forfeit Ten shillings, and if the High Constable, his Executors, &c. fail to pay the Treasurers of the County the same money.

money at the Quarter-Sessions, they forfeit twenty Shillings; which Forfeitures the Treasurers may levy by Distress and Sale as aforesaid, and the moneys to be employed to the uses aforesaid 43 *Elix. ch. 2. Wingate's Stat. Tit. Poor People. Dalr. J. P. ch. 53. fol. 135.*

CHAP. XXXI.

The Constables Office about Popish Recusants.

Popish Recusants above Sixteen years of age, shall within forty days after their conviction repair to their usual dwelling and not remove above five miles from thence, on pain to forfeit all their Goods and Lands, and Annuities during Life; and if they have no certain abode, then are they to repair to the place where they were born, or where their Father and Mother dwells, and within twenty days after their arrival, there to give their Names in writing to the Minister, Constables and Headboroughs, which Minister is to enter them in a book to be kept for that purpose, and he, together with the said Constables and Headboroughs, are to certify the same to the next Quarter-Sessions, where the Justice of Peace must cause the same to be enrolled. 35 *Elix. c. 2. Wingate's Stat. Tit. Crown!*

The Constables and Churchwardens of every Parish, or the one of them, if there be none such, then the High-Constables of the Hundred there, are once every year to present at the General Sessions of the Peace, the monthly absence from Church of every Popish Recusant, and the

the Names of their Children, being above the Age of nine years, abiding with their said Parents, and of their Servants together with the Age of their Children as near as they can know them, on pain to forfeit respectively for every such default twenty shillings; which Presentment the Clerk of the Peace, or Town-Clerk shall Record without Fee, on pain of Forty shillings. *Wingate's Stat. Tit. Crown. 3 Jac. ch. 4.*

If the Minister, petty Constable, and Churchwardens of any Parish, or any two of them, shall complain to any Justice of Peace, of any person justly suspected for Recusancy, then any such Justice may tender the Oath of Allegiance to the person so suspected; and if he refuse to take it, and be of the Age of eighteen years or above, then the Justice may commit the party to the Goal, there to remain until the next Assizes or Sessions of the Peace; and if then the party refuse again, he incurs a *Premunire*, but if it be a Woman Covert, she shall only be imprisoned, there to remain without Bail till she take the said Oath. *Wingate's Stat. Tit. Crown. Dalt. J. P. ch. 45. fol. 108. 7 Jac. c. 6.*

CHAP. XXXII.

The Constables Office about Riots and Routs.

Sheriffs, Constables, and all other the Kings Officers, shall suppress Rioters, and imprison them; and all other Offenders against the Peace. *Wingate's Stat. Tit. Riots, &c. 17 R. 2. ch. 8.*

Knights

Knights, and all other Temporal Persons under that degree, that be above the Age of Fifteen years, and be able to Travel, upon warning given, are to be assistant to the Justices, when they shall be reasonably requested to surpress Riots on pain of Imprisonment, and to make Ransom to the King. 2 H. 5. 8. *Wingates Stat. Tit. Riots. Dalt. J. P. ch. 46. fol. 114.*

Note, where three persons or more shall come or assemble themselves together, to the intent to do any unlawful Act, with force or violence, against the Person of another his Possessions or Goods, as to kill, beat, or otherwise to hurt, or to imprison a man; to pull down an house, wall, Pale, Hedge or Ditch; wrongfully to enter upon, or into another mans Possession, House, or Lands, &c. or to cut or take away Corn, Grass, Wood, or other Goods wrongfully, or to hunt unlawfully in any Park or Warren, or to do any other unlawful Act (with force or violence) against the Peace; or to the manifest Terrour of the People, if they only meet to such a purpose or intent, although they shall after depart of their own accord, without acting any thing, yet this is an unlawful Assembly, because of their intention at the first. *Bro. Tit. Riot. 4, 5. Crompt. 68. Co. 3. part. Inst. fol. 176. Dalt. J. P. ch. 85. fol. 217. Terms de Ley. Verb. Rout Lamb. 179, 181.*

If after such meeting, as aforesaid, they shall ride, go, or move forward towards the execution of such Act, whether they put their intended purpose in execution or not, this is a Rout. *Bro. Riot. 4. Co. 3. part. Inst. fol. 176. Terms de Ley. Verb. Rout. Dalt. J. P. ch. 8. fol. 217.*

And if they do any such thing indeed, then it is a Riot. *Co. 3. part. Inst. fol. 176. Terms de Ley,*

Ley. verb. Riot. Dalt. J. P. ch. 85. fol. 217. Bro. Riot. 4 & 5.

CHAP. XXXIII.

The Constables Office about Rogues and Vagabonds.

THE Constable, Headborough, or Tythingman, assisted by the Minister and one other of the Parish, is to see (or do it himself) Rogues and Vagabonds, which shall be taken begging, stripped naked from the middle upwards, and openly whipped till their body be bloody, and then forthwith to be sent away from Constable to Constable the next straight way to the place of their birth, and if that cannot be known, then to the place where they last dwelt by the space of one whole year, before such punishment; and if that cannot be known, then to the Town through which they last passed unpunished: And when they come there, if it cannot be discovered where they were born, or last dwelt as aforesaid, then are they by that Constable to be conveyed to the House of Correction or Common Goal of the County, to be employed in work, or placed in some service, and so to continue by the space of one year; or in case they be not able in body that Town is to keep them till they may be placed in some Almshouse within the same County. 39 El. ch. 4. *Wing. Stat. Tit. Vagabonds Resoluc. Judges Sect. 714. Bolst. 2. Part. Rep. fol. 258.*

After such whipping, the Vagabond is to have a Testimonial under the Hand and Seal of the Constable,

Constable, Tythingman, &c. and the Minister, testifying the day and place of his punishment, the place to which he is to be conveyed, and the time limited for his passage thither; which time, if by his own default he exceeds, he shall from time to time incur the like punishment, till he arrive at the place limited; the substance of the Testimonial is to be registred by the Minister in a Book, which he is to keep for that purpose on pain of five shillings. See the form of the Testimonial, pag. 104. *Wingate's Stat. Tit. Vagabonds. Dalt. J. P. fol. 129. Poulton Vagab. 3.*

If any Constable, Headborough, or Tythingman, be found negligent in the due Execution of the Act of the 39 *Eliz.* aforesaid, he forfeits Ten shillings for every Default, and all such persons as shall in any wise disturb or hinder the Execution of the Law, or any part thereof, concerning the Punishment of Rogues, forfeit Five pounds, and to be bound to the good behaviour: and observe therefore, that by the Resolution of the Judges, *Stat. 13, 14.* where a Rogue is to be conveyed from Constable to Constable the next straight way to the place of his birth, in such case, if the Constable of any Parish will not receive such Rogue, to convey him to the next Constable, &c. this is a Forfeiture of Five Pounds in such Officer that shall not receive the party to convey him or her, and he may be bound, as aforesaid, to the Good Behaviour, and if he receive him, and do not convey him to the next Constable, it seems he incurs the like Penalty, 39 *Eliz. ch. 4. Poul. Vag. 5 & 11. Dalt. J. P. ch. 47. fol. 128. & Resol. Judges Stat. 13, 14.*

Every Person shall apprehend or cause to be apprehended, such Rogues as he shall see or know

know to resort to his house to beg, or receive any Alms, and him or them shall carry, or cause to be carried to the next Constable, or else shall forfeit for every such default Ten shillings; and the Constable is to whip and convey such Rogues as afore directed, on pain of twenty shillings. 1 Jac. ch. 7. Poul. Vag. 5. Dalt. J. P. ch. 47. fol. 128. Wingate's Stat. Tit. Vagabond.

Two Justices of the Peace, (*Quor. m.*) by Warrant under their Hands and Seals, may cause to be levied by Distress and Sale of the Offenders goods all the Fines and Forfeitures aforesaid, appointed by the Stat. 39 Eliz. ch. 4. 1 Jac. ch. 7. after Conviction of the party, which must be after confession or proof of two sufficient Witnesses before the said Justices. Poul. Vag. 1. 39 Eliz. ch. 4. 1 Jac. ch. 7. Dalt. J. P. ch. 47. fol. 149. Wingates Stat. Tit. Vagabond.

If the Constables or Tythingmen neglect to make privy search for Rogues upon Warrant from the Justices of Peace, and to appear before the Justices at their meeting appointed for that purpose, to give an account upon Oath in Writing under the Ministers Hand, testifying what Rogues, &c. they have taken in that search, or since the last meeting, and how many have been punished, or otherwise sent to the House of Correction, or if they neglect safely to convey such to the House of Correction, as by the said Justices Warrant are to be committed thither, they are to incur what Fine the Justices please to set upon them, so that it exceed not Forty shillings. 7 Jac. ch. 4. Wingate's Stat. Tit. Vagabond.

Note, that all these persons following being above the Age of seven years, Man or Woman, Sole or Covert, that wander from their usual place

place of abode, abroad every where begging; or if they do not beg, yet if they wander and loyter abroad without a lawful Pass-port, and give no good reason for their Travel, are accounted Rogues: All Scholars and Sea-faring men which beg, wandring persons, that use unlawful Games, subtile Craft, or Plays, or pretending themselves to have skill in Physiognomy, Palmestry, or the like, or to be Fortune-tellers; all Proctors, Patent-gatherers (except for Fire) Collectors for Goals, Prisoners, or Hospitals, wandring abroad, Fencers, Bearwards, Common Players of Enterludes, and Fiddlers or Minstrels wandring abroad, all Juglers, Tinkers, Pedlers, and Petty-Chapmen, and Glass-men wandring abroad, especially if they be not well known, or have not a sufficient Testimonial; all Counter-seit *Egyptians* not being Felons; all persons delivered out of Goals, which beg for their Fees, or otherwise do travel begging, such as go to or from the Baths and do not pursue their Licence; Soldiers and Mariners that beg, and counter-seit a Certificate of their Commanders; All Labourers which wander abroad out of the Parish, and refuse to work for wages reasonably taxed; having no living otherwise to maintain themselves, and such as go with a general Pass-port which is not directed from Parish to Parish; all these are accounted Rogues, Vagabonds, and Sturdy Beggars: And all Servants departing out of their Service (to wit, forth of one City, Town, or Parish to another, or out of one Hundred or Countie to serve in another) without a Testimonial, or which shall be taken with a false one, and those that are sick of the Plague, and wilfully go abroad in company against the
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command of Officers, are to be punished as Vagabonds: but observe that none but the wandering Rogue is to be sent to the place of his birth, or last habitation; for those poor people which beg in their own Parish, without the appointment of the Overseers, or in the Highways, are to be sent to the House of Correction. 39 *Elix. ch. 4.* & 7. 43 *Elix. ch. 2.* 1 *Jac. ch. 7.* 21 *Jac. ch. 28.* 7 *Jac. ch. 4.* 5 *Elix. ch. 4.* *Poult. Vag. 2,* & 7. *Risol. Judges 13.* 15. *Dalt. J. P. ch. 47. fol. 123, 124, 125.* & *Cro. 2. part Rep. fol. 577.*

Note, that the Wife and Children under seven years of age, being vagrant, must go and be placed with the Husband; and if the Husband be dead, then with the Wife where she was born, or last dwelt; and vagrant Children above seven years of Age, must be sent to the place of their Birth; and if the vagrant Parents with their Children under seven years of Age be placed at the place of the birth of the Parents, or at the last place of dwelling, as the case falls out; if afterwards the Parents, or either of them die, or run away, yet the Children once settled, must remain there still, and may not be sent to the place of their birth, though afterwards they attain to the Age of seven years; and the Wife being but a vagrant Rogue, ought to be sent to the Husband, though he be but a Servant in another Town, and the Rogue whose place of birth or dwelling cannot be known, having a Wife, or Children under seven years of age, they must go with the Husband to the place where they were last suffered wilfully to pass through unpunished; where the Children must be relieved with the work of their Parents, though
their

their Parents be committed to the House of Correction. 39 El. ch. 4. Poult. Vag. 2. Resoluc. of Judges, Sect. 4, 5. Dalt. J. P. ch. 47. fol. 125.

Now the Form of a Testimonial for the Conveying a Rogue that hath been banished, is as followeth :

John Roo a Sturdy Vagrant Beggar (of tall stature, gray haired, and blind of the left Eye) aged about fifty years, was this second day of February, in the twentieth year of the Reign of our most gracious Sovereign Lord King Charles the Second of England, &c. openly whipped at Kirk-Leventon in the County of York, according to Law, for a wandering Rogue ; and is assigned to pass forthwith from Parish to Parish, by the Officers thereof, the next straight way to A. in the County of Westmerland, where as he confesseth he was bo n ; and he is limited to be at A. aforesaid within Ten days now next ensuing at his peril. Given under the Hands and Seals of J. H. Minister of Kirk-Leventon aforesaid, and J. M. Constable there. Wingate's Stat. Tir.

CHAP. XXXIV.

The Constables Office about profane Swearing.

IF any person or persons shall profanely Curse and Swear, for every time so offending they forfeit Twelve pence ; the Offence to be proved within Twenty days after it is committed, by the Oath of Two Witnesses, or by Confession of

of the party before any Justice of Peace, or Head Officer of any City or Town Corporate; who thereupon may issue out their Warrant to the Constables, and Churchwardens, and Overseers of the Poor of that Parish where the said offence shall be committed, and the said Constables, &c. are to levy the sum and sums of money by distress and sale of the Offenders Goods, rendring the overplus, if any be, to the Owner. 21 *Jac. c. 20.* 3 *Car. 1. c. 4.* *Wingate's Stat. Tit. Swearing. Dalt. J. P. c. 55. f. 138.*

Note, Where no Distress is to be had, the Offender, if above Twelve years of Age, shall by Warrant, as aforesaid, be set in the Stocks Three whole hours; but if the Offender be under the age of Twelve years, and shall not forthwith pay the said sum of twelve pence *per Oath*, then he or she is to be whipped by the Constable, or by the Parent, or Master, in the Constables presence. 21 *Jac. ch. 20.* 3 *Car. 1. ch. 4.* *Dalt. J. P. ch. 55. fol. 138.*

CHAP. XXXV.

The Constables Office about Profaning the Sabbath.

THE Constable by Warrant from a Justice of Peace, (or the Chief Officer of any City, Borough, or Town Corporate) under their Hand and Seal, against such as use unlawful Games on the Sabbath-day, as Bull-baiting, Bear-baiting, Enterludes, or other unlawful Exercises within their own Parish, or out of their own Parish at any such Sports whatsoever, may levy the penalty

penalty of three shillings and four pence by Distress and Sale of the Offenders Goods, rendering the overplus to the owners; and in default of Distress, the Constable is to set the Offenders in the Stocks by the space of three hours: Note, that the party offending in these Games, must be questioned within a month after the Offence committed. 1 Car. 1. ch. 1. Dalt. J. P. ch. 23. fol. 63.

If any one on the Sabbath-day keep, or be present at any Wrestling, Shootings, Bowlings, Ringing of Bells for pleasure, Mask, Wake, Church-Ale, Dancing, Games, Sport, or Pastime whatsoever, they forfeit Five shillings, if he or she be above Fourteen years of age, and if under that age, then Twelve pence by him that hath the Government of the party, to be levied by Sale and Distress by the Constable, by Warrant from a Justice of Peace, or Chief Officer, as aforesaid; and for want of Distress, to be set Three hours in the Stocks, and every Carrier going with his Horses on this day, or Wagoner, Carrier or Waynman going with any Wagon, Cart or Wayn, or Drover with his Cattel, forfeit Twenty shillings for every offence, to be levied also by Distress and Sale of his Goods, if he be questioned within six weeks after the Offence done; but there must be but one Twenty shillings forfeit for one Journey, although they pass through several Parishes, and this twenty shillings that Parish shall have where the Distress is first taken. 3 Car. 1. ch. 1. Dalt. ch. 30. fol.

134.

And if any Butcher by himself, or any for him, shall kill or sell any Victuals upon the Lords day, he forfeits Six shillings and Eight pence, to be

be levied by the Constable by Distress and Sale, as aforesaid, upon Warrant from a Justice of Peace, &c. the Offence to be questioned within Six weeks after it is committed, and the parties to be convicted before any Justice of Peace, Mayor, or Head-Officer, &c. upon their own view, proof of two Witnesses or more, or the parties own confession, and the Justice, Mayor, &c. may reward the Informer with a Third part of the penalty. 3 Car. 1. ch. 1. Dalton's J. P. ch. 50. fol. 134.

All Laws in force concerning the Observation of the Lords day shall be put in Execution: none shall do any work by Labour or Business that day, (works of Charity and Necessity only excepted): and the Offender, if of the Age of Fourteen years or upwards, shall forfeit Five shillings: none shall cry or expose to sale any Wares that Day, on pain to forfeit them: no Drover, Horse-Courser, Waggoner, Butcher, Higler, or their Servants, shall travel on the Lords-day, on pain to forfeit twenty shillings: no person shall travel on that day with any Boat, Wherry, &c. except on extraordinary occasion to be allowed by a Justice of Peace, or Head-Officer of the place, &c. on pain to forfeit Five shillings. 29 Car. 2. ch. 7.

The Justice of Peace or Chief Officer of the City, Burough, &c. before whom the Offender is convicted, by view, confession, or Oath of one Witness, shall give Warrant to the Constables or Churchwardens, to seize the Goods cried, or put to sale, and to sell them, and to levy the other penalties by distress and sale of Goods, and in case of inability, &c. to set the Offenders in the Stocks for two hours: the Penalties

to be to the Poor of the Parish where the offence is committed, saving that the Justice or Head-Officer may reward Informers, the reward not exceeding a third part of the Penalties. But Prosecution must be made upon this Act within ten days after the offence committed. 29 Car. 2. ch. 7.

Dressing of meat in Families, Inns, Cook-shops, &c. and crying of Milk before Nine in the Morning, or after Four in the Afternoon, are not Prohibited by this Act 29 Car. 2. ch. 7.

No Writ, Process, Warrant, &c. shall be served on the *Lords day*, except for Treason, Felony, or Breach of the Peace; but the Service shall be void, and the Party serving it shall answer Damages, as if done without Warrant. 29 Car. 2. ch. 7.

CHAP. XXXVI.

The Constables Office about Tobacco Planting.

ALL Sheriffs, Justices of Peace, Mayors Bailiffs, Constables, and every of them upon Information or Complaint made to them, or any of them, by any of the Officers of the Customs, or by any other person or persons whatsoever, that there is any Tobacco set, sown, planted, or growing within their Jurisdictions or Precincts (Except such as is growing in any Physick-Garden of either University, or in any other private Garden, where the quantity of ground planted exceeds not one half of one Pole,

Pole, in any one place or Garden) they are within ten days after such Information or Complaint, to cause to be burnt, plucked up, consumed, or utterly destroyed, all such Tobacco so set, sown, planted, or growing. 12 Car. 2. c. 34.

And if any person or persons shall resist, or make forceable opposition against any person or persons in the due execution of this office as aforesaid, every person or persons for every such offence, shall forfeit the sum of Five pounds, to be recovered in any Court of Record; and be also committed to the Common Goal of the County where the offence was committed, there to remain without Bail or Mainprize, until he, she, or they do enter into Recognizance to his Majesty, his Heirs and Successors, with two sufficient Sureties in Ten pounds penalty, not to do or commit the like offence again. 12 Car. 2. c. 34. 15 Car. 2. c. 7.

And now by the Stat. 22 & 23 Car. 2. it is further provided, That the Justices of Peace shall a month before every Quarter-Sessions, issue Warrants to High-Constables, Petty-Constables and Tythingmen, to make search what Tobacco is then sown, planted, or made, and by whom, and to make Presentment thereof in Writing upon Oath at the next Quarter-Session; which Presentment shall be a conviction in Law, unless the Party (having ten days notice before the Sessions) traverse the same there, and find Sureties to prosecute his Traverse the next Quarter-Sessions after such Traverse entred. 22 & 23 Car. 2. ch. 26.

Constables, Tythingmen, and other Publick Officers, shall from time to time, within fourteen days after Warrant from two or more Justices

of Peace, calling to them such as they find convenient, destroy all Tobacco planted or growing in any Ground: If such Tobacco be unconsumed fourteen days after receipt of such Warrant, such Constables, Tythingmen, or other Officers respectively shall forfeit Five shillings for every Rod so set or planted, &c. And proportionably for a greater or less quantity; one moiety to the King, the other to him that will sue for the same. 22 & 23 Car. 2. ch. 26.

Persons refusing to assist the Constable, &c. being convicted before two Justices of Peace, shall forfeit five shillings, to be levied by distress and sale of Goods, and for want thereof shall be committed for a week: And persons forcibly resisting any Constable, &c. being convicted as aforesaid, shall forfeit Five pounds, to be levied as aforesaid, and in default thereof, shall be committed for three months. 22 & 23 Car. 2. ch. 26.

Physick-Gardens, and Gardens for Chirurgery excepted, as in the former Acts. Persons sued for acting in Pursuance of any of these three Acts of Parliament, may plead the General Issue, and give the special matter in Evidence: This Act is to continue nine years, and from thence to the end of the Session of Parliament then next ensuing. 22 & 23 Car. 2. ch. 26.

CHAP. XXXVII.

The Constables Office about weights and Measures.

EVery City, Borough, and Market-Town within *England*, ought to have common Weights and Measures sealed, at which the Inhabitants themselves may freely weigh; and all Foreigners must pay for every Draught under 40 pound, a Farthing, for a Draught between Forty and a Hundred, must pay an Half-Penny, and for a Draught betwixt an Hundred and a Thousand, they must pay a Penny; wherewith the Weights are to be maintained, and the Officers which attend that Service are to be rewarded at the discretion of the said Inhabitants 8 H. 6. *ch. 5. Wingate's Stat. Tit. Weights and Measures.*

Every City which wants such Weights and Measures forfeits Ten pounds to the King, every Borough Five Pounds, and every Market-Town Forty shillings; and the Chief Officers of such places, whether they be Constables, Bailiffs, or others, are upon request to them made, to mark and sign such Weights and Measures to any of the Kings Subjects, taking for the marking of every Bushel, one Penny; and none ought to sell with any other Weights or Measures, but such as are so marked. 8 H. 6. *ch. 5. 11 H. 7. ch. 4. Wingate's Stat. Tit. weights and Measures.*

Mayors, and Chief Officers, &c. are at least once every year to view all Measures and Weights within their Jurisdiction, and break

or burn them which they find defective, and also may inflict punishment upon the offenders; for the first offence Six shillings Eight pence, for the second, Thirteen shillings and Four pence, and for the third offence, Twenty shillings; and besides, may adjudge them to the Pillory. *Wingates Stat. Tit. Weights and Measures. 11 H. 7. c. 4.*

By the *Stat. 22 Car. 2. c. 8.* All Constables are impowered to search and examin if any person buy or sell by any other Bushel than *Winchester Measure*, containing Eight Gallons to the Bushel or Strike, and sealed by the Clerk of the Market; and if any person do not strike the same even with the brim; and any Constable may seize and break such other Measure, and present the Offender at the next Private or Quarter Sessions.

CHAP. XXXVIII.

The Constables Office about watches.

THE Constables, &c. of every Town, are to cause Night-watch to be kept from *Ascension* till *Michaelmas*, in their Town, which Watch must continue from Sun-set to Sun-rise, and may be by two or four men, according to the greatness of the Town. *13 E. 1. ch. 4. Dalt. 3. P. c. 60. fol. 140. Poul. Watch. 1.*

These Watchmen are to apprehend all Strangers that pass by them in the Night, and must examine them; and if they find cause of suspicion in them, then they may keep them till the morning;

morning; and if the parties refuse to obey the Arrest, then the Watchmen may levy Hue and Cry for the taking of the said Night-walkers; or the Watchmen may justify the beating of them upon their resistance, and set them in the Stocks till the morning, and then if no Suspicion be found in the parties, they may let them go quit: but if they find Suspicion in them, then the Watchmen may deliver them to the Constable, who is to convey them to a Justice of Peace to be examined, and to be bound over, or committed until they be acquitted according to due form of Law. *Dalt. J P. ch. 60. fol. 140. & ch. 109. f. 292. § E. 3. 14. § H. 7. §. a. Lamb Office Const.*

These Watchmen are also to apprehend Rogues and Vagabonds, Night-walkers, Evesdroppers, Scouts, and such like, and such as go armed, &c.

And note, That these particulars following have been held for Law concerning Watches.

First, That the Watch must be by men of able body, and sufficiently armed, and that no man is compellable to Watch, except he be an Inhabitant within the same Town.

Secondly, That such as are Inhabitants within the Town, are not compellable to Watch at the will of the Constable, but only when their turn cometh, according to the use and custom of the place, which most commonly is by turn, or house.

Thirdly, if a man who is compellable to watch shall contemptuously refuse to watch, upon the command of the Constable; it hath been held by some, that the Constable in such case, *ex Officio*, may set the party in the Stocks for his contempt; but the safest way is for the Constable

to present such person for his default at the Assises or Sessions of the Peace, or else to complain of him to a Justice of Peace, who may bind the Offender to the Good Behaviour, and so over to the next Quarter-Sessions, &c. *Dalt. J. P. ch. 60. fol. 141.*

CHAP. XXXIX.

The Constables Office about Collecting the Assessments for the Incumbents in London.

BY the Statute of 22 & 23 Car. 2. the Annual Tythes of Parishes in London, whose Churches were demolished or consumed by the late Fire, whether single or united, or sums of money in lieu of Tythes for maintenance of the Parsons, Vicars, and Curates there, are ascertained: And thereby it is Enacted, That the Improprators of the said Parishes shall allow what they ought to do before the Fire, which is to be esteemed as part of the Incumbents Maintenance: That Aldermen and their Deputies, and Common-Council-men of the several Wards, with the Churchwardens and one or more of the Parishioners of the respective Parishes to be nominated by such Alderman, Deputy, Common Council-men, and Churchwardens, or any five of them, whereof the Alderman or his Deputy, should be one, should before the 20th of May, 1671. assess upon all Hereditaments whatsoever, except Parsonage and Vicarage-Houses, the Respective Sums by the said Act ascertained for each Parish, or so much of them as is more than what each

Impro-

Impropiator is by the said Act enjoyned to allow. 22 & 23 Car. 2. *ch.* 15.

Such Assessments might be reviewed and altered within Three months after the 24th. of *June*, 1674. and again within Three months after the 24th of *June*, 1681. according to the aforesaid Rules: And in default of the said Alderman, Deputy, &c. Persons Authorized and requir'd by the Lord Mayor and Court of Aldermen to take such Assessment, might do the same. 22 & 23 Car. 2. *ch.* 15.

The said sums of Money are to be paid quarterly to the Parsons, Vicars and Curates: And upon refusal or neglect by the Inhabitants to pay the same, and demand made at the Premises, whereout the same is payable, the Lord Mayor upon Oath of such refusal or neglect, may grant Warrants for the Collector, with assistance of a Constable in the day time, to levy the same by distress and sale of the Parishes Goods, rendring the overplus, over and above the Arrears due, and reasonable charges of distraining; And if the Lord Mayor or Court of Aldermen refuse or neglect to execute the Laws given them by this Act, the Lord Chancellor, or Keeper of the Great Seal, or two Barons of the Exchequer, may by Warrants under his or their Hands and Seals, do what the Lord Mayor and Court of Aldermen ought to have done. 22 & 23 Car. 2. *ch.* 15.

CHAP. XL.

The Constables Office about Executing Warrants.

A Justice of Peace may direct his Warrant to the Sheriff, Bailiff, Constable, or other Officer, or to any other Indifferent person by Name, though he be no Officer. 14 H. 8. 16. Bro. Peace 6. Dalt. J. P. ch. 117. fol. 332.

A Warrant directed by the Justice of Peace to the Constable or other sworn Officer, and to a Stranger who is no Officer, and the Warrant is made to them jointly and severally, and is delivered to the Stranger who executeth it, this is good enough: and if a Warrant from a Justice of Peace be directed to two men jointly to Arrest another, yet any one of them may do it alone. *Crompt.* 147. Dalt. J. P. ch. 117. fol. 332.

If a Justice of Peace direct his Warrant to the Sheriff, he may by word command his Under-sheriff, Bailiff, or other known and Sworn Officer to serve it without any precept to them in writing, and they upon such Commandment of the Sheriff may lawfully do it. *Lamb.* 91. Bro. *faux Impr.* 43. & *Trespas* 339. Dalt. J. P. ch. 117. fol. 332.

But if the Sheriff in such a case do command a Stranger who is neither his Servant nor Sworn Officer, then he must do it by precept in writing, or otherwise an Action of false Imprisonment lies for the Arrest. Dalt. J. P. ch. 117. fol. 332.

Where a Warrant is directed by a Justice of Peace to the Sheriffs Bailiff, or his Servant, or

to the Constable, or other private person to Arrest one, such person cannot command another to do it, neither by word nor writing, but must do it himself. *Co. 9. lib. Rep. fol. 69. 14 H. 7. 9 b. 20 H. 7. 13. 21 H. 7. 14. Dalt. J. P. c. 117. fol. 332.*

The Officer to whom any Warrant shall be directed, ought with all speed and secrecy to seek and find out the Party, and then to execute his said Warrant. *Dalt. J. P. ch. 117. fol. 332.*

A sworn and known Officer (be he Sheriff, Under-Sheriff, Bailiff, or Constable) needs not to shew his Warrant to a man when he comes to serve it upon him, although he demand it; but he who is no sworn Officer ought to shew his Warrant upon demand, or otherwise the party may make resistance and not obey him, and a sworn Officer also upon the Arrest, though he will not shew his Warrant, yet he ought to acquaint the party with the contents thereof. *M. & 8. E. 4. f. 14. a. Bro. faux Impr. 23. Dalt. J. P. c. 117. f. 332, 333. Co. 6. lib. Rep. 54. & 9 lib. fol. 68.*

Note, that an Officer giveth sufficient notice what he is, when he saith to the party, *I arrest you in the Kings Name, &c.* and in such case the party at his peril ought to obey him, though he knoweth him not to be an Officer; and if he have no lawful Warrant, the party grieved may have his Action of false Imprisonment against him. *Co. 9. l. Rep. f. 69. Dalt. J. P. c. 17. f. 333.*

If a Constable or other Officer Arrest a man for the Peace, or the like, before that he have a Warrant, and then afterwards doth procure a Warrant (or a Warrant cometh after him) to Arrest the party for the same cause, yet the first Arrest

Arrest was wrongful, and the Officer is subject to an Action of false Imprisonment. *Dyer* f. 244. *Lamb.* 93. *Dalt.* *J. P. c.* 117. f. 333.

Where a Warrant is granted out against *J. N.* the Son of *T. P.* and the Constable, or other Officer takes *J. N.* the Son of *L. P.* although he in truth be the same person that offended, and against whom the complaint was made, yet this Arrest is tortious, and the Officer liable to an Action of false Imprisonment. 10 *E. 4.* f. 12. *Ero. faux Impr.* 38. *Dalt.* *J. P. c.* 117. f. 333.

But it is said by some, that where two or three are known by the name of *I. R.* of *K.* Yeoman, and upon a Warrant or other Process granted out against one of them, another of them is Arrested, in such case an Action of false Imprisonment will not lie against the Officer; *tamen quare* hereof. 11 *H. 4.* fol. 90. 5 *E. 4.* fol. 51. *Dalt.* *J. P. ch.* 117. fol. 333.

Where an Officer hath received a Warrant, he is bound to pursue the effects of his Warrant in every behalf; or otherwise his Warrant will not excuse him of that which he hath done. *Dalt.* *J. P. ch.* 117. fol. 333.

The Constable or other Officer, upon a Warrant from a Justice of Peace for Treason, Felony, the Peace, or Good behaviour, or in any other case where the King is party, may by force of such Warrant break open a mans house to Arrest the Offender; but in such case he ought first to signify the cause of his coming, and require them to open the doors, before he break them open. *Co. 5. Lib. Rep.* fol. 9. 7 *E. 3.* 19. *Crompt.* 171. *Dalt.* *J. P. ch.* 78. fol. 204., 205. & *ch.* 117. fol. 333.

If a Constable or Officer, hath Arrested a man by vertue of his Warrant, which he hath from a Justice of Peace, and then taketh his promise that he will come to him such a day to go to the Justice with him, according to his Warrant (and so he letteth the party go) who comes not again at the day appointed, in this case the Officer cannot take him again upon the same Warrant, because he was suffered to go by the consent of the Officer; but if the party Arrested had escaped of his own wrong, without the consent of the Officer, in such case upon fresh suit he may take him again, and again, so often as he escapeth, although he were out of view, or that he do flie into another Town or County; and it is said that the Officer in such case, though the party be taken in another County after the Escape, yet he may bring the party before the Justice, on whose Warrant he was first Arrested. *Crompt. 214. a. 148. 172, 173. Dalt. J. P. c. 117. f. 333. & c. 118. fol. 340.*

By the opinion of the Court of the 14 H. 8. it was held there, that a Justice of Peace cannot make a Warrant to Arrest a Felon, unless he be Indicted of Felony (or that the Justice himself hath a suspicion of the Felon.) But if the Constable or other Officer, shall serve such a Warrant, he may justifie the same, though the Justice did err in awarding thereof. *24 E. 3. 9. 14 H. 8. 16. Bro. Peac. 6. & faux Impr. 8, & 9. Dalt. J. P. c. 117, 331.*

Note, that where a Justice of Peace doth make a Warrant for a matter wherein he hath Jurisdiction, though it be beyond his authority, yet it is not disputable by the Constable, or other such Officer, but must be obeyed and executed by

by them; as if the Justice shall make a Warrant to Arrest one for the Peace, or good Behaviour, &c. without any cause, the Officer shall not be punished for executing the Warrant; But if a Justice of Peace shall make his Warrant to do a thing out of his Jurisdiction, or in a Cause where in the Justice is not Judge, then if the Officer shall execute such a Warrant he is punishable for it; for the Officer is not bound to obey him who is not Judge of the Cause, no more than he is bound to obey a meer Stranger; and so note that the Officer is bound at his peril to take notice of the Authority and Jurisdiction of the Judge. See *Pl. Com.* 394. *b.* 22. *Aff. fol.* 64. 14 *H.* 8.6. *Lamb,* 67. 94. *Co.* 10. *lib.* *Rep. fol.* 76. *Crompt.* 74. *Bro. faux Impr.* 8. *Dalt. J. P. c.* 117. *fol.* 334.

If any shall abuse a Justice of Peace his Warrant, by casting it into the dirt, treading it under feet, burning it, &c. for such contempt the party may be bound to his good Behaviour, and may also be indicted and fined for the same, for it is the Kings Process. *Crompt.* 149. *Dalt. J. P. c.* 117. *fol.* 334.

Where Hue and Cry either by the Common Law, or by force of any Statute is levied upon any person; the Arrest of such person is lawful, although the cause of the Hue and Cry be feigned; and if the cause be feigned, he that levies the same shall also be Arrested, and shall be fined and Imprisoned; but common Fame and Voice is not sufficient to Arrest a man in case of Felony, unless a Felony be done indeed. 29 *E.* 3. 9. 38 *E.* 3. 6. *Co.* 3. *Inst. fol.* 118. 21 *H.* 7. 28. *a.*

Conductor Generalis.

A
GUIDE
FOR

Churchwardens, Overseers of the Poor, Surveyors of the High-ways, Treasurers of the County Stock, Masters of the House of Correction, Bayliffs of Mannors, Toll-Takers in Fairs, &c.

LONDON:

Printed in the Year, 1683.

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To all Churchwardens,
Overseers, &c.

Gentlemen,

THese following Offices, as well as that of the Constable, have been touched also by Mr. Lambert, and Mr. Sheppard: but since the one writ, there have been many hundred new Statute Laws; and the other, writing in the late times of Rebellion, hath moulded his work suitable to the Manners then in fashion, and many of the Rules laid down by Mr. Sheppard in these several Offices, which thwart the Laws of the Kingdom, and Privileges of the Church, are now out of doors: I have therefore (for the ease and satisfaction of those who desire to be put in the right Way and sure Road
in

The Epistle Dedicatory.

in the executing of these several Offices) collected and published this small Treatise, briefly laying down the Authority and Duty of Churchwardens, Overseers, &c. in their several Offices. the desire of praise could not carry me aloft, who want Wings for it; but the main thing here aimed at, is the good of my Country-men, and I hope to reap the fruit of my Labour in it, that is, your kind acceptance, Dear Friends: which if I may obtain, it is all that is desired by him, who is, and shall be

Yours,

Ready to serve you,

George Meriton.

A

GUIDE

FOR

CHURCHWARDENS.

CHAP. I.

The Antiquity of the Churchwardens Office, and how they are to be chosen.

IT is r. said by some Historians, that *Dionysius*, in the year of our Lord, 267. divided both in *Rome* and other places, Churches, Churchyards, and Parishes to Curates, and Diocesses to Bishops, and this was about 87 years after *Britain* had received the Christian Faith: For though Historians do not all agree when the Christian Faith was first planted here, yet it is thought by most of them to be in the Reign of King *Lucius*, about the year of our Lord, 180. but how long after it was before these Officers called Churchwardens were appointed, it cannot certainly be known; but Mr. *Lambert* and other Authors do agree, that they are very ancient Officers, and by the ancient Common Law they were, and are still to take care, see to, and preserve the Goods of the Church, viz. the Church-books, Communion Cups, &c. and other decent Ornaments and Furniture of the Church, which they do find there at their coming into their Office, 2. As

2. As to the choice of these Officers, it is appointed by the Book of Canons Printed in the first year of King *James*, *Ann. Dom. 1603*. That all Churchwardens, Questmen, Sidemen, or Assistants in every Parish shall be chosen by the joynt consent of the Minister and the Parishioners, if it may be: But if they cannot agree upon such a choice, then the Minister shall chuse one, and the Parishioners another; and without such a joynt or several choice, none shall take upon them to be Churchwardens, neither shall they continue any longer than one year in that Office, except perhaps they be chosen again in like manner; and these Officers are to be yearly chosen in Easter-week. *Can. 89, 90.*

3. But note, where there is an ancient custom in any Parish for choice of Churchwardens contrary to this Canon, in such case the custom is to be observed before the Canon, as appears by several Cases hereafter mentioned.

4. If the Parishioners of a Parish have used time out of mind, &c. to elect one Churchwarden, and the Vicar another, and afterwards a Canon is made that the Vicar shall elect two, and he doth so accordingly, and Parishioners elect one according to their custom, and the Ordinary disallows him, and establisheth the other two elected by the Vicar; in this case a Prohibition shall be granted. *P. 5 Jac. B. R. the Parishioners Case of Rowenden in Kent. Rolls Cases, 2. part. f. 287.*

5. A Prohibition was granted against a Churchwarden chosen by the Parson of *St. Magnus* nigh *London-Bridge*, by force of a Canon, upon a surmise that the Parish had a custom to chuse

chuse two Churchwardens, Tr. 7. Car. 1. B. R. *between Sherley and Brown*, Rot. 1391. Roll's Cases, 2. part. fol. 287. The like against a Churchwarden chosen by the Parson of *Alballows*, London, P. 17 Jac. B. R. *Warner's Case*, & P. 5 Jac. the Parishioners of *Walbrook's Case* in London, Cro. 2. part. Rep. The like against a Churchwarden chosen by the Parson of *St. Thomas*, in London, P. 15 Car. 1. B. R. *Elvin's Case*, Cro. 3. part; and the like granted between *Draper and Stone* for *Abchurch* in London, P. 4. Car. 1. B. R. Rot. 420. Roll's Cases, 2. part. f. 287.

6. An Attorney cannot be made a Churchwarden: if he be put in and refuse, and so be sued in the Spiritual Court, he may have a Prohibition; P. 14 Car. 1. B. R. *Wilsons Case*, & Tr. 15 Car. 1. B. R. *Bakers Case*, Roll's Cases, 2 part. f. 272.

Note, that the Statute of 15 Car. 2. ch. 5. for Regulating Vestries, was made to continue no longer than till the end of the first Session of the next Parliament; and so it expired.

CHAP. II.

The Churchwardens Office about Prophanation of the Sabbath, and of the Church.

7. **T**Hese Officers are diligently to see that all the Parishioners duly resort to their Parish-Church upon all Sundays and Holy-days, and there continue the whole time of Divine Service, and none to walk or stand idle, or talking in the Church, Church yard, or Church-porch, during

during that time; and all such as shall be found slack or negligent in resorting to the Church (having no great or urgent cause of absence) they shall earnestly call upon them, and after due admonition, if they amend not, they must present their Names to the Ordinary of the Place.

5, 6 E. 6. c. 1. Canon 19, 90, 111.

8. If the Churchwardens find any person absent from the Church upon Sundays or Holydays, in the time of Divine Service, Preaching, or other Holy Exercise, such person is to pay 12 d. to the use of the Poor; and this extends as well to all Women Covert, as to other persons: or the Churchwardens, if they please, may present such person in the Ecclesiastical Court. But note, that none are to be punished twice for one offence, so that they must not pay their 12d. and be presented too. 1 El. c. 2. *Hobbert's Rep. fol. 97.*

8. And if they find any Tipling in an Inn or Alehouse, &c. then, besides the twelve pence, for being absent from the Church as aforesaid they forfeit Three shillings four pence more for Tipling, and the Master of the House ten shillings for suffering them to Tipple: which forfeitures are to go to the use of the Poor. 4 Jac. c. 5.

10. The Churchwardens or Questmen are to suffer no Plays, Feasts, Banquets, Suppers, Church-Ales, Drinkings, Temporal Courts or Leets, Lay-Juries, Musters, or any other profane usage to be kept in Church, Chappel, or Church-yard; neither the Bells to be Rung superstitiously upon Holy days, or Eves abrogated by the Book of Common-Prayer, nor at any other times, without good cause, to be allowed by

by their Minister of the place and by themselves.

Canon 88.

II. Neither the Minister, Churchwardens, nor any other Officers of the Church, shall suffer any man to preach within their Churches or Chappels, but such as by shewing their Licence to Preach shall appear unto them to be sufficiently Authorized thereunto: And the Churchwardens or Questmen are also to see that in every meeting of the Congregation the Peace be well kept, and that all persons excommunicated, and so denounced be kept out of the Church. *Canon 50, 85.*

Every of the Officers and other persons appointed by A^ct 25 Car. 2. to take the Oaths of Supremacy and Allegiance, in the respective Court where he takes the said Oaths, shall first deliver a Certificate of his receiving the Sacrament of the Lords Supper, as in and by the said A^ct is likewise appointed, under the Hands of the Respective Minister and Churchwardens, and shall then make proof of the truth thereof by two credible Witnesses at the least upon Oath. *25 Car. 2. ch. 2.*

CHAP. III.

Some few Cases concerning Actions for, and against Churchwardens.

12. **N**Ote, that the Law doth make of these Officers a kind of a Corporation, *viz.* Persons enabled by that name to take moveable Goods or Chattels, and to sue and to be sued at Law concerning such Goods for the use and profit of their Parish; for the property of the Goods of the Church is in them, and they are by that Name enabled to take them for the use and profit of the Parish: and therefore a man may well in his life time, or by his last Will, give or grant money, or other moveable Goods to the Churchwardens, or Parishioners of such a Parish, for the Reparations of the Church, or for buying of Books, Communion-Cups, Linnen Cloths, or other decent Ornaments or Furniture for the Church. 12 H. 7. fol. 27. *Finch's Law, lib. 2. ch. 17. pag. 178. Kitchen pag. 278. a.*

13. But they cannot take an Estate of Lands to them by name of Churchwardens only, for if a Feoffment be made to the use of the Churchwardens of D. this is a void use, for they have no capacity to take such Purchase. *Finch. lib. 2. ch. 17. p. 179. Roll's Cases, 1. part f. 393.*

14. Neither can they prescribe to have Lands to them and their Successors; for they are no Corporation to have Lands, but for Goods for the Church only. P. 37 *El. C. B. Longley and Meredines's Case. Rolls Cases, 1. part. fol. 393.*

15. If

15. If a man buy a Bell, and hang it up in the Steeple, or make a Pew, and set it up in the Church, though he make neither words nor writing hereof, yet by this the Bell and Pew are so dedicated to the Church, that the party that did owe them, can never have them again; for if they should come to remove them, the Churchwardens might sue them for it. 8 H. 7. 12. 10 H. f. 9. *Kitchin*, pag. 277. a.

16. They can have no Action at Common Law to recover any Goods of which they never had the possession: But if the Churchwardens be once possessed of any Goods, or Ornaments belonging to the Church, and afterwards the same things are taken from them, then they have the same Remedy for the things, as other men have for the Goods taken from them: And therefore if such Goods be stoln, they may have an Appeal of Robbery, and if they be otherwise taken away or abused, as if a Bell be broken, or the like, the Churchwardens may have an Action against him that doth it: And in this Action they recover Damages to the use of the Parish, and not to their own use. *Tr.* 8 E. 4. f. 6. b. 37 H. 6. 32. *Finch. lib.* 2. c. 17. pag. 178, 179. *Abr.* *Dalt.* f. 76. *Kitchin*, pag. 277. b. & 278. a.

17. And it seems also that the party that doth steal or take away any Goods belonging to the Church, may be punished, for it is a sacrilegious offence: And observe, that if the Churchwardens from whom the Goods were taken, be out of their Office, their Successors, as it seems, may sue for, or recover the same, or damages for them to the use of the Parish. *Vide M.* 31 & 32 El. B. R. *Hadman & Kingwood's Case*, *Cro. Rep.* 3. paps.

18. But note, that the Churchwardens have no such property in the Goods of their Church, as thereby to have power to give, sell, release, hurt or impair them, without the assent of the Sidemen or Vestry. *Vide* 38 *El.* Methold and Winne's Case, Roll's Cases, 1 part. fol. 393. and see Hill. 7 Jac. B. R. in Starky and Button's Case. Cro. Rep. 2. part. & vide 13 H. 7. 9.

19. If the Churchwardens shall give or impair the Goods in their custody, the Parishioners may chuse new ones, who may have an account against their Predecessors. 8 E. 4. fol. 6. b. Finch. l. 2. ch. 17. p. 179.

20. If the Organs be taken out of the Church, the Churchwardens may have an Action of Trespass for the same, for the Organs belong to the Parishioners, and not the Parson; and therefore the Parson cannot sue such party in the Ecclesiastical Court that took them. Tr. 12. Jac. B. R. per Curiam. Roll's Cases 1 part. fol. 293.

21. But if the Walls, Windows, or Doors of the Church be broken down, or the Trees in the Churchyard be cut down, or the Grass thereof be eaten up, the Parson or Vicar, and not the Churchwardens shall have an Action for it, for they are a Corporation only as to moveable Goods, and see 8 H. 6. fol. 9. where the Parson brought an Action of Trespass for breaking and entering into his house and close, which was the Church and Church-yard. 10 H. 4. fol. 9. 21 H. 7. fol. 21. & Parson's Law, p. 191.

22. The Churchwardens by the assent and agreement of the Parishioners, may take a ruinous Bell, and deliver it to a Bell-Founder, and agree with him that he shall have four Pounds for casting it, and that he shall retain the same till

till the four pounds be paid : And such agreement of the Parishioners shall excuse the Churchwardens in a Writ of Account brought against them by their Successors Churchwardens. *M. 37. 38 El. B. R. Methold and Winne's Case. Roll's Cases, 1 part. fol. 393.*

23. If a Presentment be made by the Churchwardens in the Ecclesiastical Court. That *J. S.* one of the Parishioners is a Railer and a Sower of Discord among his Neighbours, a Prohibition lies in such case ; for this belongs to the Lect, and not to the Spiritual Court, unless such Railing were in the Church, or such like place, *M. 16 Jac. C. B. Rot. 716. Smith and Pannel's Case. Hobart's Rep. fol. 246. Roll's Cases, 2. part. fol. 286.*

24. If the Churchwardens of a Church sue in the Ecclesiastical Court for a way to the Church, which they claim to belong to all the Parishioners by Prescription, in such a case a Prohibition will be granted, for this is a temporal Cause. *P. 16 Jac. B. R. between the Churchwardens of Bythorn and Bow. Roll's Cases, 2. part. fol. 289.*

25. If the Churchwardens of *C.* sue in the Ecclesiastical Court *J. S.* for that he, and all those whose Estate he hath in such an House, &c. at the Perambulation of the Parishioners of the Parish, did use to find a Refreshing for them (to wit) Bread and Ale, and suffer them to rest there; here a Prohibition shall be granted, for that they claim it in nature of a Corrody; and if that should be suffered, a great inconvenience would ensue. *M. 13 Jac. B. R. The Churchwardens of Uffington's Case in Barkshire, Hill. 15 Car. 1.*
F 2
B. R.

B. R. The like Prohibition prayed in one *Locks Case*, which was referred to Justice *Jones*, *Rolls Cases*, 2 part f. 287. The like Prohibition granted in one *Reynolds Case*, *Moore's Rep. fol.* —

26. If the Churchwardens of a Church sue in the Court Christian J. S. supposing by their Libel, that he and all those who had an Estate in certain Lands adjoyning to the Churchyard, have used time out of mind, to repair so much of the Fences of the Churchyard, which were next adjoyning to the said Land, in this Case a Prohibition will be granted; for this ought to be tried at the Common Law, in so much as that it doth charge a Temporal Inheritance; *M. 14 Car. 1. B. R. the Churchwardens of Claydon and Duncomb's Case, Rolls Cases, 2 part, fol. 287.*

CHAP. III.

The Churchwardens Office about disposing of Seats in their Church.

27. **T**Hese Officers are to look to the repair of the Seats in the Church, but the disposing of the Seats in the body of the Church belongs of common Right to the Ordinary of the Diocels, so that he may place and displace whom he pleaseth, except in some cases, *Rolls Cases, 2 part, fol. 288.*

28. For if a man and his Ancestors, and all those whose Estate he hath in a certain messuage, have used time out of mind, &c. to repair an Isle of the Church, and to sit there and none else, the Ordinary in such case cannot displace him; for if he

he do, a Prohibition lies, because he hath it by a Prescription for a reasonable consideration.

M. 10 Jac. C. B. Pimm's Case per curiam, Rolls Cases, 2. part, fol. 288.

29. If a man prescribe that he and his Ancestors, and all those whose Estates they had in a certain messuage, did use to sit in a certain Seat in the body of the Church, time without mind, &c. in consideration that he, and they, &c. have used time out of mind, to repair the said Seat; if the Ordinary remove him from such Seat, a Prohibition may be brought; for the Ordinary hath no power to dispose of it, for it is a good Prescription, and by intendment there hath been a good consideration for the commencement of such Prescription. *Tr. 12 Jac. C. B. Crose's Case M. 13 Jac. C. B. Laugh & Hully's Case, and M. 13 Jac. C. B. Boothby & Day's Case. Rolls Cases, 2 part, fol. 288.*

30. But if a man prescribe to have a Seat in the body of the Church generally, without consideration to repair the same, then the Ordinary in such case may displace him. *M. 11 Jac. B. R. per curiam, & M. 13 Jac. C. B. inter Boothby & Bayly. Hobbart's Rep. fol. 69. Rolls Cases, 2 part, fol. 288.*

31. The Ordinary hath nothing to do with the Seats in the Chappels belonging to the houses of Noblemen, *T. 12 Jac. C. B. Rolls Cases, 2 part fol. 288.*

32. But if a Lay-man by the dissolution of Monasteries hath a Monastery in which there is a Church, parcel of it, and he suffers the Parishioners for a long time to come to it, and do Divine Service, and to use it as their Parish-Church, this (unless for all the whole time the party hath

used to place men in their Seats himself) shall give Jurisdiction to the Ordinary to order the Seats; for that now in fact is the Parish Church, although that before it were not subject to the Ordinary. *Tr. 12 Jac. C. B. Buzzard's Case, Roll's 2 part. f. 228, 289.*

33. If there be a Custom in a Parish that twelve of the Parishioners may chuse Churchwardens, which Churchwardens have power by the Custom to repair the Seats, and make new ones in the Body of the Church, and to appoint what persons shall sit in them; and the Churchwardens so elected do erect a new Seat in the Body of the Church, and appoint a certain man to sit there, and afterwards the Ordinary decrees that another shall have the Seat, here a Prohibition lies; for the custom hath fixed the power of disposing the Seats in the Churchwardens, *P. 16 Jac. B. R. Barbin and Tredennick's Case for a Seat in Breock Church in the County of Cornwall: but the reason of granting the Prohibition in this Case, was partly because that the Sentence of the Ordinary was, That Tredennick should have the Seat to him and his Heirs, and that none should disturb him on pain of Excommunication, which is unreasonable, and by such Sentence he and his Heirs should have it, though they were no Inhabitants within the same Parish. Roll's Cases, 2 part. fol. 289.*

CHAP. IV.

The Churchwardens Office about Reparations and Rates.

34 **T**Hese Officers are to see that the Church and Churchyard be well repaired and kept clean, and they are to provide Books of Common Prayer, Books of Homilies, a Parchment Book for Registring Christnings, Weddings and Burials in Fonts, Pulpits, Tables, Chests for Alms, Communion-Cups, Ornaments and other Furniture, and a Chest with three Locks and Keys for putting the same in: and they are also to provide Bread and Wine for the Sacrament according to the number of the Communicants. And for these purposes they may rate the Parish for money to do it, for which see 37 H. 6. 30. 11 H. 4. 12. 11 H. 7. 27. 12 H. 7. 10. F. N. B. 54. 91. *Canon* 20, 70 80, 81, 82, 83, 84, 85.

35. Upon making of Rates for Reparations, &c. they are to be done by the Churchwardens with the assent of the greater part of the Parishioners, and upon a general warning given before they assemble for that purpose; and note, that the Ecclesiastical Court hath Cognizance of the Reparation of the Body of the Church. See *Jeoffry's Case*, C. 5. lib. Rep. fol. 67. & *Rolls Cases*, 2 part. 289. M. 31, 32 *Eliz. B. R.*

36. If a man stay and inhabit in one Parish, and have Lands in another Parish, which he occupies there, he may be charged for such Lands for the Reparation of the Church of the Parish where the Lands lie, because he may come there

when he pleases, and he is to be charged in respect of the Lands. *Co. 5. Rep. 4. 67. M. 31 & 32 El. B. R. Jeoffry's Case, & Tr. 11 Jac. C. B. Andrews's Case, per curiam. Rolls Cases, 2 part, f. 289.*

37. But if an Inhabitant of a Parish Lease out his Lands which he hath in another Parish, reserving Rent, then he shall not be charged in the Parish where the Land lies in respect of the Rent, because there is a Parishioner and Inhabitant which may be charged. *Co. 5. Rep. 4. 67. b. M. 5. Jac. C. B. Rolls Cases, 2 part, f. 289. and see P. 41 El. B. R. Paget and Crompton's Case. Cro. Rep. 1 part. f.*

38. Neither can a man who inhabits in one Parish, and occupies Lands in another Parish, be charged in that Parish where the Lands lie for the Ornaments of that Church according to his Land; for the Inhabitants only ought to be rated for them, and so it was adjudged by the Court. *M. 20 Jac. B. R. Rolls Cases, 2 part. f. 291. Winches Rep. fol. per Yelverton.*

39. Neither can a man be charged in the Parish where he doth inhabit, for the Lands which he occupieth in another Parish, towards the Reparation of the Church in the Parish where he liveth; because then he might be twice charged, for he may be charged in the Parish where the Land lies, as is shewed before. *Sect. 38. P. 16. Jac. B. R. Sir William Butler Vers. Rolls Cases, 2 part. f. 289. Co. 5. Rep. f. 67.*

40. If a petty Chapman take a Stall in the waste of a Mannor for Rent, within the Market for two or three hours every Market-day to sell his Commodities, the Market being held there one day every Week, but he inhabits in another Parish, here he cannot be rated to the Reparation

tion of the Church for such Stall or Standing. *M. 20 Jac. B. R. between Holms and the Churchwardens of Kettering in Northamptonshire, resolved and a Prohibition granted accordingly. Roll's Cases, 2 part, f. 289.*

41. If a Citizen of London build an house in the Parish of A. and inhabit there in the time of Sickness in London, and hath not any Land in the Parish, and afterwards he is assessed 20 s. for the Reparation of the Church, where others that have a 100 Acres of Land in the same parish pay but 6 d. yet notwithstanding no Prohibition lies in this case in the Court Christian, because they have the Jurisdiction of the thing; and therefore he must be ordered according to their Law. *M. 5. Jac. C. B. Sir Robert Ley's Case. Rolls Cases, 2 part. fol. 289.*

42. If there be a Chappel of Ease within a Parish, and one part of the Parish have used time out of mind, &c. to repair the Chappel themselves without the rest of the Parishioners, and there to hear Service, and Marry, and all other things, but only that they bury at the Mother-Church; here notwithstanding they shall not be discharged of the Reparation of the Mother-Church, but must contribute to it; for the Chappel was ordained only for their ease. *M. 13 Jac. C. B. between the Churchwardens of Ashton and the Inhabitants of Castle-Bromage. Rolls 2 part. f. 289. & Hob. Rep. 4. 66.*

43. If all the Parishioners in the Parish are not rated, but some are, and some are not; and those who are rated, are sued in the Ecclesiastical Court, yet they cannot have a Prohibition, but must plead this matter in the Spiritual Court. *M. 11. B. R. per curiam. Rolls Cases, 2. part. f. 291.*

44. If the greater part of the Parishioners of a Parish where there are four Bells, agree that there shall be made a fifth Bell, and it is made accordingly, and they make a Rate for payment for it, this shall bind the Remainder of the Parishioners, although they did not agree to it; for otherwise any obstinate persons might hinder any thing intended, and what is fit for the Ornament of the Church. *M. 2. Car. 1. B. R. Roll's Cases, 2 part. f. 291.*

45. Note, That a man ought to be rated according to his personal Estate, and not according to his Lands for the Ornaments of the Church. *M. 20 Jac. B. R. Rolls Cases, 2 part. f. 291.*

46. These things hereafter mentioned are accounted Church-Reparations, *viz.* the Walls of the Church and Church-Steeple, the Church-yard Walls of Stone or Brick, the Windows of Stone or Brick, and the Bars of Iron, and Glass, the Roof of Timber, with Laths, Nails, Prigs, Dogs and Bolts of Iron, the covering of Lead, Tile, Slates, or Shingles, the Floor with stone or paving Tile, the Doors of Timber with Locks, Keys, Ridges, Hooks and Nails, the Furniture of the Steeple with Stairs, Floors, Bells, Wheels or Ropes, the Pulpits and the Pews or Seats, not made by private men, and all these are to be performed by the Land-Rate, &c. though the occupier lives in another Parish, as afore shewed.

47. But these hereafter mentioned are not properly Church-Reparations, *viz.* the Communion-Table, with the Coverings thereof, the Communion-Cups, the Bread and Wine for the Communion, the Bible and other Books appointed to be in Churches, the washing of the Communion-clothes, the Candles for the Lecture days.

days, the Surplice, the Pulpit-cloth and Cushion, the Clerk and Sextons Wages, and expences of the Churchwardens and Sidemen at the Visitation; and therefore all these are to be performed Ratably by the Inhabitants of the Parish, and not by Out-dwellers.

By the Statute of 22 & 23 Car. 2. intituled (An Act for the better paving and cleansing the Streets and Sewers in and about the City of London) it is Enacted, That where any Church or Churchyard shall be fronting or adjoyning to any of the Streets, Lanes, or Passages before mentioned in the said Act, the Persons Authorized and appointed to impose Taxes upon Houses in Proportion to the benefit they receive, shall rate and assess a reasonable proportion thereof upon the Parish thereunto belonging, the same to be paid by the Churchwardens of every such Parish for the time being, who are by the said Act required to pay the same accordingly on behalf of the same Parish. 22 & 23 Car. 2. ch. 17.

CHAP. V.

Some Cases wherein the Churchwardens are equally concerned with the Constables and Overseers of the Poor. See fol. 32, 33, 34. their Power against Conventicles.

48 **I**F any of their own Authority shall wilfully disturb any Minister in his Preaching or Reading Divine Service, the Churchwardens or Constables may of their own Authority apprehend such Persons, and bring them to a Justice:

a Justice of Peace to be dealt with according to Law. 1 Mar. Sect. 2. c. 3. See the Constables Guide ch. Disturbing of Ministers, &c.

49. These Officers are to joyn with the Overseers of the Poor in the execution of their Office, for they have an equal Authority and Charge with them in the execution of the whole Office; therefore see afterwards in the Office of Overseers of the Poor, ch. 1.

50. If a Rogue be brought to these Officers, they must receive him, and lock to him, or forfeit 5 l. and be bound to the good Behaviour. Stat. 32 El. See Constables Guide, ch. Rogues, &c.

51. These Officers, by Warrant from a Justice of Peace, may levy the forfeiture for Cursing and Swearing, which is 12 d. upon the Offenders Goods. 21 Jac. c. 20. 3 Car. 1. ch. 4. See Constables Guide, ch. Swearing, &c.

52. If any Forfeiture be by any offence about killing Hares, Pheasants, or Partridges, and the Justice of Peace force the payment thereof to these Officers, they are to see it employed to the use of the Poor of the Parish. 1 Jac. ch. 27.

53. These Officers are to present the Offences against the 1 Jac. for suffering Tipling and Drunkenness, and selling by unlawful measure, and are to execute the Warrants from the Justices concerning the same. 1 Jac. ch. 9. 1 Car. 1. ch. 4. 21 Jac. ch. 7. 4 Jac. ch. 5. See Constables Guide, Alehouses, &c.

54. These Officers also are to execute the Warrant against such as Profane the Lords-day. 1 Car. 1. 1. ch. 3. Car. 1. ch. 1. 29 Car. 2. ch. 7. See Constables Guide, ch. Profanation of the Sabbath.

55. These Officers also are to execute the Warrants against such as destroy Fish unlawfully. 3 Jac. ch. 12. See *Constables Guide*, ch. Fish, &c.

56. These Officers are also to Joyn with the Constables, in the making of Rates for the Relief of Poor maimed Soldiers and Mariners, and for conveying Prisoners to the Goal, and to execute the Warrants for the same. 43 El. 14 El. ch. 5. 3 Jac. c. 10. See *Constables Guide*, ch. Quarter Monies. &c. conveying Prisoners to the Goal.

57. These Officers are also to Joyn with the Constables in the chusing of Surveyors for the High-ways, and in setting down of days for the work, and in over-sight of the High-Constables Account for the Monies they do receive upon any forfeiture about the High-ways; and they may also wth the help of two Justices of the Peace (*Quor. unus*) force High-Constables that have received any Monies forfeited for default of High-ways, to account for it, and pay in what is in their hands to be imployed about the High-ways. 2 & 3 P. & M. ch. 8. Vide *Constables Guide*, ch. High-ways.

58. These Officers have equal Authority with the Constable or Overseers of the Poor, about the seizing of Foreign Cattel imported into England, &c. 18 Car. 2 ch. 2. 20 Car. 2. ch. 7. 32 Car. 2. ch. 2. And by 32 Car. 2. ch. 2. these Officers and the Overseers of the Poor are to distribute the said Cattel when killed (except the Hides and Tallow) to the Poor.

For the duty of these Officers, where no Affidavit is made upon the Acts for burying in Wolsen, Vide *Overseers Guide*, ch. 6.

For the better discovery of the Offenders in detaining the Monies given for the Relief of the Poor of the City of London, at the times of the late Plague and Fire, All Archbishops, Bishops, Archdeacons, Deans, and Officials, in their Visitations, shall give it in charge to all Ministers, Churchwardens, and Sidesmen, that they present the Names of all such Persons as they know or believe to detain any of the said Monies, and the Sum so detained by them, 22 & 23 Car. 2. ch. 16.

CHAP. VI.

The Churchwardens Office about passing Accounts, together with the Heads of most of the things which they are to present in the Visitation Court.

59 **A**LL Churchwardens at the end of their year, or within a month after at the most, are before the Minister and Parishioners to give up a just Account of such monies as they have received, and also what particularly they have bestowed in Reparations or otherwise for the use of the Church : And last of all, going out of their Office, they must truly deliver up to the Parishioners whatsoever Monies or other things of Right belonging unto the Church or Parish which remains in their Hands, that it may be delivered over by them to the next Churchwardens by Bill Indented, *Vide Canon 89.*

60. And if they refuse to do this, they may be presented at the next Visitation Court for it, or the

the succeeding Churchwardens may have an Action of Account against them by the Common Law, and compel them to give an Account, and answer for their doings during the time of their Office; and if they have done the Parish any wrong, to make amends and satisfaction for the same to the use of the Parish for the harm it hath received by their default: And in this Account the old Officers shall have allowances for all the needful Sums of money laid out or spent by them, either upon the Reparations of the body of the Church, Tower, or Bells, &c. or for Relief of the Prisoners in the Goal, or otherwise where the Law doth injoyn them to pay or disburse any money. *Vid. 8 E. 4. f. 6. b.*

61. Now as touching the Churchwardens Presentments. Note, That no Churchwardens, Questmen or Sidemen of any Parish shall be enforced to exhibit their Presentments to any having Ecclesiastical Jurisdiction, above once in every year, where it hath been no oftner used, nor above twice in any Diocess whatsoever; except it be at the Bishops Visitation; for the which Presentment of every Parish, Church, or Chappel, the Register of any Court where they are to be exhibited, shall not receive in one year above four pence, under pain of every offence therein, of suspension from the execution of his Office for the space of one month *toties quoties*; but the Churchwardens may voluntarily upon their own account present oftner if they please. *Canon 116.*

62. But no Churchwardens, Questmen, or Sidemen, shall be called or cited, but only at the said time or times before limited, to appear before any Ecclesiastical Judge whatsoever, for refusing at any other time to present any Faults.

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committed in their Parishes, and punishable by Ecclesiastical Laws; neither shall they, nor any of them, after their Presentments exhibited, at any of those times be any further troubled for the same, except upon manifest and evident proof it may appear, that they did then willingly and wittingly omit to present some such publick crime or crimes as they knew to be committed, or could not be ignorant that there was then a publick fame of them, unless there be very just cause to call them for the Explanation of their former Presentments: In which case of wilful omission, their Ordinaries shall proceed against them in such sort, as in cases of wilful perjury in a Court Ecclesiastical it is already by Law provided. *Canon 117.*

63. Note, That one of the two times for Presentments is always to be about a Week or a Fortnight after *Easter*, at which time also the old Churchwardens are to leave the Office, and new ones are to come in, but the new ones are not to be sworn till the old ones have given in their Presentment, and every Parson or Vicar, and in the lawful absence of the Parson or Vicar, then their Curates and Substitutes are to joyn in every Presentment with the Churchwardens, Side-men and Questmen; and if the Churchwardens, &c. refuse to present, then every such Parson or Vicar, or in their absence, as aforesaid, their Curates may themselves present to their Ordinaries at all such times, and when else they think meet. *Canon. 113, 118.*

64. The Heads of the Articles, most commonly exhibited to the Churchwardens to make their Presentments upon, are as followeth:

65. *Whe-*

65. Whether their Church and Chancel, Bells and Ropes be good and well repaired, and the Ten Commandments, Lords Prayer, and Creed, drawn out in fair Letters, the Kings Arms set up, Assessments made for the Repair of the Church, and who refuses to pay? if they have a font, Communion-Table, Carpet, Tablecloth, Flagons with Cups, and Cover for Bread and Wine, Reading-Desk, Pulpit with a Cushion, and Covering fit for it, a Commonprayer-Book of the largest Volume; and the Bible of King James's Translation in Folio, with a Book of Homilits, and Book of Canons, and a Surplice? If the Tombs, Monuments and Grave-Stones, be safely kept from removing and breaking; a Book of Parchment for Registering Christnings, &c. A Chest with three Locks to put the same and the Church Ornaments in, with a Box for Alms, and a Table of Degrees prohibited in Marriage, set forth 1563. hung up in the Church? And if the Parsonage-house and out-houses be in good repair; and the Churchyard well fenced to keep out Swine, &c.

66. Then, whether their Parson, Vicar, or Curate, read the Common-Prayer at Morning and Evening Service, wear his Surplice, bid Holy days, Preach every Sunday, or read a Homily, Catechise, observe the 5th of November, 30 Jan. and 29 May, and keep Perambulations, preach sound Doctrine, and vent no Sedition against the King or Government, celebrate the Lords Supper three times every year at least, whereof at Easter for once; Baptize Infants with Godfathers and Godmothers, visit the sick, and pray with them, Bury the Dead according to the Book of Common Prayer, Marry none clandestinely, Preach in his Gown, be a man of a sober and chaste life, a Peace-maker amongst his Neighbours, and one that takes care to reduce Sectaries, Popish Recusants, Separatists and Refractory

Refractory persons to the Obedience and Doctrine of the Church, and reads the Book of Canons to the People at least once every year, and the 39 Articles twice every year, according to his Majesties Letters published 1662.

67. Then, whether all their Parishioners of due Age, resort to the Church to Divine Service, behave themselves reverently there, Kneel, Stand up, and make answer according to the Rubrick of the Common-Prayer Book? whether any work or sell wares on Sundays or Holy days, or Vintners, Victuallers, Inn-keepers, or others, receive any into their houses to tipple on those days? whether any marry within the prohibited Degrees, be Adulterers, Fornicators, Blasphemers, Swearers, Drunkards, or Sorcerers, and if all above sixteen years old receive the Lords Supper at least three times every year, Easter to be one? and whether any keep their children unbaptized? Women after Delivery in due time come not to be Churched, or any bring not their dead to be buried after the Service of the Church, keep Conventicles, have been married without Banes or Licence at unlawful hours? and whether their Alms-houses, Hospital, School, or Spittle, if they have any, be well and godly used, or any thing detained from it? what Legacies given to pious uses; and if the Parishioners be placed into Pews or Seats without offence or contention.

68. And lastly, whether their Parish Clerk and Sexton (if they have any) be duly chosen, can write and read, be of honest life, and make the Responses to the Hymns and other Suffrages? and if the School-master and usher, Physician, Chirurgion, or Midwife (if they have any of them) teach or practice without Licence? If the Churchwardens be duly chosen in the week after Easter, by the Parson and Parishioners, according to the Canon or Custom? and if the old Church-

Churchwardens have been diligent to keep the Church in good repair, to preserve all the Furniture thereof, and walk out of the Church usually about the midst of Divine Service, to see who are abroad in Alehouses, or elsewhere absent or evilly imploy'd.

69. These are the Heads of most of the Articles that are inquired of at the Visitation Courts; but it is probable there may be some small alteration according to the use of the several Diocesses in several places.

FINIS.

GUIDE

FOR

Overseers of the Poor.

CHAP I.

Of the Antiquity of the Officers, of their Qualifications, and how, and when to be chosen.

THIS Office of Overseers of the Poor, is a Name and Office of great Excellency and Antiquity, and may beseeem the best and not the meanest men in the Parish; for this is not the least Office, to be called *Overseers of the Poor*: for as God himself hath a special respect to the miseries of the Poor, so they be like God which provide for the Necessities of the Poor.

2. Now it is certain, that the Antiquity of this Office is above sixteen hundred years standing, as appears by holy Writ; for we find St. Stephen the Proto-martyr, a man full of Faith, and of the Holy Ghost, and Philip and Prochorus, and Nicanor, and Timon, and Parmenas, and Nicholas a Profelyte of Antioch, chosen to this Office, as appears *Act. 6. 3.* and see *Acts 20. & 28. & 1 Cor. 16. 2, 3.*

3. As

3. As for the qualifications of these Officers they ought to be substantial persons, having competency of Wealth, Wisdom, a Good Conscience, and of honest report; see *Acts* 6. & 3. *Dalt. J. P. c. 40. f. 93.*

4. Now these Overseers of the Poor, here with us in *England*, are certain officers appointed yearly to be joyned and assistant to the Churchwardens of the Parish, in the over-sight and ordering of the Poor of the Parish, and they are to be appointed by two or more Justices of the County (whereof one to be of the *Quorum*) dwelling in or near the Parish or Division, &c. who are yearly under their Hands and Seals, at *Easter*, or within a month after to appoint four, three, or two substantial Housholders (according to the greatness of the Parish to be joyned with the Churchwardens of the Parish) and all these together are to look to the Poor of the Parish; for the Churchwardens of the place have an equal power and charge with the Overseers, and may be punished for their neglect, if they refuse to meddle herein, 43 *El. 2. 21 Jac. c. 28. Dalt. J. P. c. 40. f. 93. Wingates Stat. Tit. Poor people.*

5. The major part of these Officers, without the rest of them may do any thing belonging to their Office. But they are to have the allowance and consent either in particular, or in general of two Justices of the Peace (*Quor. unus*) to every thing they do about their Office. And these Officers, or such of them as shall not be let by just excuse (to be allowed by two Justices) are to meet monthly in the Church on Sunday after Evening Prayer, and there are to consider of some meet directions about their Office, and they are to use all possible diligence in their Office on pain
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to forfeit for every such default twenty shillings.
43 *El. c. 2. Wingates Stat. Tit. Poor people.*

6. And if it happen that Overseers be not appointed according to the 43 *El.* then every Justice of Peace, or Head-Officer of that Division or Corporation shall forfeit 5 *l.* to be levied by a Sessions Warrant, and employed to the use of the Poor of the Parishes where such default is made, 43 *El. ch. 2. Wingates Stat. Tit. Poor people.*

CHAP. II.

Of the several sorts of Poor people, and what poor the Overseers are to provide for and relieve, or to set to work.

7. **N**Ote, That there are three sorts or degrees of Poor, as first the Poor by impotency and defect, as the aged and decrepit that are past their labour; the Infant, Fatherless and Motherless, and not able to work, the person naturally disabled either in Wit or Member, as an Ideot, Lunatick, Blind, Lame, &c. not being able to work, and the person visited with grievous sickness or disease, though casually, yet thereby for the time being impotent. All these the Overseers are to provide for, that they have necessary Relief and Allowances proportionable and according to the continuance and measure of their maladies and needs, and of these it may be said, *Si non pavisti, occidisti*, *Dalt. J. P. c. 40. f. 100.*

8. Then secondly, the Poor by Casualty, as a person casually disabled or maimed in his body

body, as the Soldier or Labourer, &c. maimed in their lawful Callings, the Householder decayed by casualty of Fire, Water, Robbery, Suretiship, &c. and the poor man over charged with Children: All these (and such like others) having ability and strength of body, but not sufficient means to maintain themselves, are to be set to work by the Overseers, and being not able to live by their work, they are in Charity to be relieved in some reasonable proportion, according to their several wants and necessities. *Dalt. J. P. ch. 40. f. 100.*

9. Then lastly, The thriftless poor, as the riotous and prodigal person, that consumes all with play or drinking, &c. the dissolute person, as the Strumpet, Pilferer, &c. the Slothful person that refuseth to work, &c. and the Vagabond that will abide in no place or service; and for all these the House of Correction is the place where they are to be sent to, and being of able bodies there they are to be held to hard Labour, and to maintain themselves by their labour and work, without charging the Town or Country for any allowance. *7 Jac. ch. 4. Dalt. J. P. ch. 43. f. 101.*

10. But it seemeth, that if any of these last sort of Poor happen to prove impotent, and also in cases of manifest extremity, then they are to be relieved by the Town. *Dalt. J. P. c. 40. f. 101.*

11. If the Parents be able to work, and may have work, they are to find their Children by their labour, and not the Parish; but if they be overcharged with Children, they may help, by having some of their Children put out Apprentices by the overseers. *Dalt. J. P. c. 40. f. 98.*

12. The Father, Grandfather, Mother, Grandmother, and the Children and Grandchildren of every Poor impotent person not able

to work, being of sufficient ability, shall relieve such poor Persons in such manner, as the Justices of Peace of that County (where such sufficient person dwelleth) at their General Quarter Sessions shall Assess; and if such person refuse to abide the order, they forfeit 20 s. for every month to the Poor of the Parish, which forfeiture is to be levied by the Churchwardens or Overseers, or one of them, by Warrant from any two Justices of the Peace (*Quor. unus*) within their Limits, by distress and sale of the Offenders goods, and for want of distress, any two such Justices may commit the Offenders to Prison, there to remain without Bail till the said forfeiture be paid. 43 El. 2. *Resol. Judges* 16, 17. *Dalt. J. P. c.* 40. f. 98.

13. But note, that if a man marry a Grandmother that hath no Estate, the Grandfather in Law is not chargeable: But if she hath an Estate caused without such marriage, or that comes after marriage by descent or otherwise to her, here he may be charged: But where they have raised themselves an Estate by their own Industry there it is doubtful. But in no case shall he be charged longer than his wife lives; and it seems also Bastard Children are not within this Law, neither can the Justices do any thing therein against a man that lives out of their County. See *Boulstred's Rep. 2. part. f.* 245, 246, 247.

14. No poor may beg but in their own Parish, and there by Licence of the Overseers of the Poor; and they may not licence them to beg in the High-ways there, and without the licence of the Overseers they may not beg at all. *Ref. Judges* 15. *Dalt. J. P. c.* 40. f. 99. 39 El. 3.

15. No Inhabitants may serve any Poor at their

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Door, but those of their own Parish, that have licence from the Overseers of the Poor to beg there, under pain of 10 s. for every time they do so. 1 *Jac. 7. Dalt. J.P. ch. 47. fol. 126.*

16. These Officers to make provision for a poor man that wants an House (but not for a common Herdsman or Shepherd) with consent of the Lord of the Mannor first had in writing under his Hand and Seal, either by themselves, or with a Sessions Order, may erect a Cottage upon any part of the Waste of a Mannor, and lodge Inmates therein, notwithstanding the *Stat. 31. El. 7.* But such Cottage may not be afterwards employed otherwise than to lodge impotent persons there, for if it be, then it falls within the penalty of the *31 El. aforesaid, 43 El. c. 2. Wingate's Stat. Tit. Poor People.*

17. All such persons married or unmarried, having no means to maintain them, use no ordinary and daily Trade of life to get their living by, and such persons also as can get no work, are to be set on work by the Overseers; and any one Justice of Peace may send to the House of Correction, or Common Goal, such as shall not employ themselves to work, being appointed thereto by the Churchwardens and Overseers of the Poor of the Parish. *34 El. c. 2. Dalt. J.P. c. 40. f. 39.*

18. And to this purpose the Churchwardens and Overseers of the Poor may by, and with the consent of two or more Justices of the Peace (*Quor. annis*) &c. Set up, use, and occupy any Trade, Mystery, or Occupation, only for the setting on work, and better relief of the Poor of the Parish, Town, or Place, where they are Overseers, &c. *3 Car. 1. ch. 4. Dalt. J.P. ch. 40. f. 94. Wingate's Stat. Tit. Poor People.*

CHAP. III.

The Duty of the Overseers about putting forth and binding of Apprentices, with the form of the Indenture for that purpose.

19. **I**N the putting out of Children Apprentices, there ought to be regard had to the Master, the Child, and the Parents; First to the Master, that he be of ability and honesty, otherwise by some device or hard intreaty they may provoke their Apprentices to depart or run away, and regard is also to be had to his Trade or Faculty, lest the Apprentice consume his time without learning any thing: Secondly, Regard is to be had to the Apprentices to put them out timely, and while they are young and tractable (so that they be above the age of seven years) otherwise by reason of their idle and base Educations they will hardly keep their Service or imploy themselves to work: Then lastly, Regard is to be had to the Parents to take away such from them as are brought up to live idly and loosely, or else such as are a burthen and charge to their Parents. *Dalt. J.P. ch 40. f. 94. 95.*

20. Note, That the choice of these Apprentices are to be out of the poorest sort of Children, whose Parents are the least able to relieve them, and they are to be above 7 and under 15 years of age, when they are first bound. *7. Jac. c. 3. Wingate's Stat. Tit. Poor People.*

21. And these Officers are to have the consent of two Justices of the Peace in the placing out of such Apprentices; and they may bind the Man-child till 24 years of age, and the Woman-child

till 21 years of age, or till she be married, which shall first happen: And these Apprentices may be bound to Weavers, Masons, Dyers, Fullers, or any other Trade, as well as to Husbandry or Housewifery. See 43 *El. ch. 2. Dalt. J.P. ch. 31 f. 38. Wingate's Stat. tit. Poor People.*

22. Now this placing of Apprentices may be to any man, whom the Officers and Justices think fit to receive them, within the same Parish or elsewhere in other Parishes within the same Hundred either with, or without money; therefore it is fit in this case to consider, if the Child be young, and the party to whom they place it is not very able, then they may give Money, if they please, as the party and they shall agree. *Res. Judges 1633. Quest. 1.*

23. All men that have, or may have use for Servants, as Knights, Clergy-men, Gentlemen, and Yeomen, as well as Tradesmen, are bound to take Apprentices; yea, though wealthy men take themselves, or live so privately, that they have no use for a Servant, yet they may be compelled to take them, or else to pay a sum of Money for putting them Apprentices elsewhere; and if they refuse to pay the sum imposed upon them, Two Justices of the Peace may make their Warrant to levy the same by distress and sale of the Offenders Goods. *Res. Judges 1633. Quest. 4. Poult. 2. 4. Dalt. J.P. c. 40. f. 94.*

24. Or the Refusers to take Apprentices may be presented and indicted for the same, upon the Stat. 43 *El. c. 2.* at the Assizes or Sessions of the Peace. *Dalt. J.P. c. 40. f. 95. Res. Judges, 1633. Quest. 7.*

25. An apprentice put to a man in respect of his Farm when his Lease expireth, the Apprentice shall

shall go still with the Farm, if the first Master be so pleased; otherwise it is where an Apprentice is put to a man in regard of his ability, or for other respects. And where any differences are between the Officers and the man that is to receive an Apprentice, about money, and what money shall be given or otherwise, here the Justices thereabouts, or, in their defaults, the Sessions must end it. *Res. Judges, 1633. Quest. 2. Dalt. J. P. c. 40. f. 95.*

26. If the Parents of poor Children shall refuse to let their Children be put forth Apprentices (without good cause shewed) such Parents may be bound over, by the Justices, to answer their said default, and if the Children shall refuse, the Justices may send them to the House of Correction, there to remain til they be content to be bound & serve. *Dalt. J. P. c. 40. & 31. f. 96. & 78.*

27. Note, that this binding must be by Indenture, and may not well be done by a Verbal Agreement; and the Indenture must be either between the Justices, Churchwardens, and Overseers, or them, and the Apprentice on the one part, and him that takes the Apprentice of the other part, as appears by the form of the Indenture in the end of this Chapter; and he must be named by the name of Apprentice expressly, or else he is no Apprentice, though he be bound. *Crompt. 184. Dalt. J. P. c. 31. f. 82.*

28. And this binding is as effectual to all purposes, as if the Children were of full age, and did bind themselves by Indentures and Covenants; and all such as are bound by the Overseers, as above-said, may safely be received and kept as Apprentices by their Masters. *1. Jac. c. 25. 21. Jac. c. 28. Dalt. J. P. c. 31. f. 83. 3. Car. 1. c. 4. 5. El. c. 4. Crompt. 184. b.*

29. Note, That money given, to put our poor

Children Apprentices, is to be employed in Corporate Towns by the Corporations, and in other places by the Parson or Vicar, together with the Constables, Churchwardens, and Overseers of the Poor, or the most part of them; who shall not forbear to refuse to employ the same accordingly, on pain to forfeit five marks, each of them so making default, to be divided betwixt the Poor of the Parish and the Prosecutor. 7 Jac. ch. 3. Wingat's Stat. Tit. Poor. People.

30. And the party, taking any money with such Apprentice, shall give good security by Obligation to repay it at the end of seven years next ensuing the Date of the said Obligation, or within 3 months after the end of the said 7 years; and if such Apprentice shall die within the 7 years, then within 1 year after his or her death; and if the Master, Mistress, or Dame, happen to die within the 7 years, then within 1 year after their death: so as the money may be employed in placing the Apprentice with some other of the same Trade, to serve out his time, at the discretion of the parties trusted as aforesaid. 7 Jac. c. 3.

31. And the money so given shall be employed within three months after the Receipt thereof, and if there shall not be apt persons found in the places where it is given to the Apprentices, it shall then be employed in the Parishes next adjoining, by the parties that are trusted with it in the place where it was so given, and there also Bond shall be taken, as afore is declared. 7 Jac. c. 3.

32. Note, That if the Master shall put his Apprentice into apparel, it is a Gift in Law, and he cannot afterwards take it away, though he should part with his Apprentice. Br. Transgr. 93.

33. An Apprentice cannot be discharged from his

his Apprentiship. but by 4 Justices of the Peace at the least, and in open Sessions, or else by the Agreement of the Master and Apprentice, and under his Masters hand in writing. *Dalt. J.P. cb. 31. f. 79.*

34. The Form of these Indentures, mentioned before, is as followeth, viz. This Indenture made the 29 day of September, in the 20 year of the Reign of Our most Gracious Sovereign Lord Charles the Second, by the Grace of God of England, Scotland, France, and Ireland, King, Defender of the Faith, &c. Annoq; Dom. 1668. Witnesseth that J. W. and G. R. Overseers of the Poor in the Town of Kirk Leavenon, and J. R. Churchwarden of the same Town, by and with the consent of Sir J. P. Knight and Baronet, and T. M. Esq; two of his Majesties Justices of Peace for the North-Riding of the County of York, have by these presents placed and bound J. T. (being a poor fatherless Child) as an Apprentice with E. H. of Kirk-Leaventon afore said, Widow; and as an Apprentice with her the said E. H. to dwell from the day of the date of these presents, until she the said J. T. shall come to the age of 21 years, or be married, which shall first happen, according to the Statute in that case made and provided; by and during all which time and term the said J. T. shall the said E. H. her Dame well and faithfully serve in all the such lawful business as the said E. H. shall put her the said J. T. unto, according to her power, wit, and ability, and honestly and obediently in all things shall behave her self toward her said Dame and Children, and all the rest of the Family of the said E. H. And the said E. H. for her part promiseth, covenanteth, and agreeth that she the said E. H. the afore said J. T. in the Art and Skill of Housewifery the best manner that she can, or may, shall teach and inform, or cause to be taught and informed, as much as thereunto belongeth, and she the said E. H. knoweth; and also

during all the said Term to find unto her said Apprentice, Meat, Drink, Linnen, Woollen, Hafe, Shoes, washing, and all other things needful or meet for an Apprentice. In witness whereof, &c.

35. Note. If it be a Boy that is to be bound Apprentice to Husbandry, or any other Trade; then he may be bound till 24 years of Age, as is shew'd before in this Chapter.

CHAP. IV.

Several Cases about Settlements, and also touching Bastards, &c.

36. **A**S touching Setling of Poor People, Note, That the Justices are to meddle with none but those who are impotent, and such as are like to be chargeable to the place where they are. *Boulstr. Rep. 1. par. 347.*

37. And as to this it was enacted by the 14 Car. 2. c. 12. That if any Stranger come into a Parish to settle there in any Tenement under 10 l. a year, and he refuse to give such Security for the discharge of the Parish as two Justices shall think fit; then any two Justices (*Quor. unus*) might upon complaint to them made by the Churchwardens or Overseers within 40 days after the Stranger comes into the Parish, make their Warrant to send him to the place, where he was last legally settled as a Native, Householder, Sojourner, Apprentice, or Servant 40 days or more; so that by this, it seems to have been the opinion of that Parliament, that no man that rents 10 l. a year, or above, is to be accounted such a poor man as to be removed by order of the Justices 14 Car. 2. ch. 12. But this Statute

tute (as to all but what concerns the Corporations constituted thereby) was to continue no longer than to the end of the first Sessions of the next Parliament, and so this and several other Branches of it concerning Rogues, Vagabonds, Poor. &c. are now expired.

38. Note, that no man but a Vagrant Begger, ought to be sent out of any Parish to the place of his birth or last habitation ; for if any refuse to work in the Parish where he is settled, or to work for the wages assessed, then he is by the Justices to be sent to the House of Correction. *Co. 2. part. Inst. f. 730. 7 Jac. c. 4. Resol. Judges; 9 Dalt. J. P. c. 47 f. 126. 39 El. c. 4. 1 Jac. c. 7.*

39 If a Scholar in the University, or in a Grammar School begin to be suspect, he may be, or if he doth become impotent, and is like to be a charge to the Parish where he is, he must be sent to his Parents if he have any, otherwise to the place where he was last legally settled before he came to School. *Res. Judges, 1633. Stat. 31.*

40. If one be born, and live 20 years in A. and then go to B. and there live in a house and pay his Rent, and after he come to C. and there works 20 Weeks as a Labourer in a Quarry of Stones, where he breaks his back, and becomes impotent, and there is taken vagrant and begging, in this case he must be sent to A. the place of his birth, and there must be provided for. *Res. Judges, 14 Car. 1.*

41. If a man that hath a Wife and Children, take an House in one Parish for a year, and during this time he is illegally forced out of his Possession; then he takes an House as Inmate in another Parish, out of which he is put within two or three days, and then not having any place to be in, he gets into a Barn in the third place, and there his

Wife is delivered of another Child : In this case they are all to be sent to the Parish out of which they were first illegally forced. *Resol. Judges, 1663. Sect. 24.*

42. One born in D. left that place for the space of 20 years, then lived in S. took an house and paid Rent, and left that place also 6 or 7 years, and then came to L. in another County, and there was 20 weeks did work, and there became Impotent, and did wander and beg in the same place, and was taken as a Vagrant, and it was ordered he should be passed and settled at D. where he was born, by the Judges at *Worcester Assises. 14 Car. 1. Boulstr. Rep. 1. part. f. 375.*

43. No Child under the Age of 7 years shall be adjudged a Rogue within the *Stat. 39 El. ch. 4.* But it seems such Children vagrant and begging must be sent and placed with the Father and Husband of the Wife ; and if he be dead, then with the Mother (where she was born, or last dwelt by the space of one year) and such Children, once thus settled or placed, must there remain, and not be sent from thence to their place of birth, though after their Parents dye or run away, or that the said Children grow above the Age of 7 years, yea, though the said Children after beg and prove vagrant in the Town, for there they must be set to labour by the Overseers of the Poor. *Res. Judges, 4, 9, 10. Poult. Vag. 2. & Dalt. J.P. ch. 74. f. 125.*

44. But Children above 7 years of Age, going about vagrant or begging in the Country, shall be punished as Rogues, and sent to their place of birth, *Dalt. J.P. c. 42. f. 125, & Res. Judg. 4. 39 El. c. 4.*

45. The Wife, being a Vagrant Rogue, must be sent to her Husband, though he be but a Servant in another Town ; and where the Husband and Wife have

have an House, (though as an Inmate) and either of them Rogue about, In this case they are to be sent to the place where the house is. *Dalt. J.P.c. 47. f. 125. Ref. Judges 3, & 5.*

46. The Rogue, whose place of birth or last dwelling cannot be known, having Wife and Children under 7 years of age, they must go with the Husband to the place where they were last wilfully suffered to pass through without punishment, where the Children must be relieved by the work of their Parents, though the Parents be committed to the House of Correction; and if the Rogue have Children above 7 years of age, that Rogue about with him, then they are to be sent to the House of Correction also with the Parents, and when they come out again, then to their several places of births, *Dalt. J.P.c. 47. f. 123. and Shephard's Guide for J.P. pag. 252. Ref. & c. b.*

47. If I live in a House in *A.* there with my Children, but I work in *B.* where I am hired by the year, in this case my Children shall be in *A.* but if I have an House in *B.* they shall be placed there, *Dalt. J.P.c. 40. f. 99.*

48. *A.* being a Wanderer with three Children born in three Parishes, comes to *Dalt* with them to her Sister, and there dieth shortly after, here the Children must be settled in the several Parishes where they were born, and not in the Parish where the Mother dyed. *Boulstr. Rep. 2. part 351.*

49. No man is to be put out of the Town where he dwelleth and is lawfully settled, nor to be sent to his place of birth, or last habitation, but a Vagrant Rogue, not to be found by the Town, except the party be impotent, but they ought to set themselves to labour, if they be able and can get work. And if they cannot get work, then the Overseers

are

are to set them to work : and if in such case such persons wander abroad begging out of the Parish, then they may be sent as Vagabonds (from the place where they shall be taken wandring or begging) to the place of their birth. *Dalt. J.P.c.40.f.99.*

50. If a Maid Servant be gotten with Child at *A.* by her Fellow Servant (or by another Man of the same Town) and after both their Services ended, the marry, and then the young man is retained at *B.* and afterwards the Woman is delivered of her Child, in this case she with her Child are to be sent to the Father at *B.* and there must be settled. *Dalt. J.P.c.40.f.99.*

51. If any disturbance be made to any Settlement lawfully ordered by the Justices, either by the Constables refusing to receive and convey a Rogue where they ought to do it, or by the Churchwardens and Overseers of the Poor in refusing such an one as is duly sent to be settled there, in such case they forfeit $\text{5 } l.$ by the *39 El.c.4.*

52. If a Woman unmarried be hired Weekly, Monthly, half Year, or Yearly, in one Parish, and there be gotten with Child, and then goeth into another Parish, and there is settled in Service, or otherwise for two or three months, and then she is discovered to be with Child, in this case she and her Child shall be settled in the Parish where she then is, and must not be sent to the Parish whence she came. *Resol. Judges 1633. Sect. 12.*

53. If a Woman be delivered of a Bastard Child in one Parish, and then go into another Parish with her Child, in this case the Child after it is nursed, is to be sent to and settled in the place where it was born, and not to remain with the Mother. *Res. Judges 1633. Sect. 1.21.*

54. If *A.* have a Bastard Child by *B.* born in

Dale

Dale, 10 years, and the reputed Father marries another Woman, and they breed the Child 10 years in the Parish of *Sale*, and the Mother of the Child is in Service all this while, and a Single Woman, the Reputed Father dies; in this case the Child is to be sent to the Mother first, to be maintained by her if she be able, and if not, it must be kept by the Parish of *Sale*; where it was settled with the Father 10 years. *Boulstr. Rep. 2 part. 2. f. 350.*

55. If a Woman have a Bastard Child, and is like to be chargeable to the Parish, and she is sent to the House of Correction for it (as she may be by Law) in this case it hath been questioned whether the Child must go with her, or remain in the Town where it was born, (or settled with the Mother) and there to be relieved by the work of the Mother, or by Relief from the Reputed Father, upon the 18 *El.* and it seems most reasonable to be so; and yet the common opinion and practice is otherwise, (to wit) to send the Child with the Mother to the House of Correction: And this may also seem reasonable where the Child sucketh on the Mother. *Dalt. J.P. ch. 11. fo. 39.*

56. If a Woman with Child be sent to the House of Correction, and there be delivered, the Child must be sent back to the Parish where the Woman came from, there to be relieved. Also if a Woman be travelling, and have her Child with her, and is apprehended and sent to the Goal, and there hanged for Felony, in this case the Child shall not be chargeable to the place where the Goal is, but to the place where it was born (if it can be known) otherwise to the place where the Mother was apprehended; and so was the opinion of Sir *Nicholas Hide* 3 *Car. 1.*

57. The two next Justices (*Quor. vires*) in or next to the limits where the Parish Church is, may take

take order as well for the punishment of the Mother and reputed Father of a Bastard Child, as also for the relief of the Parish where it is born, by charging the Mother and Father with the payment of money weekly toward the keeping of it, or otherwise: And if the Mother or Father perform not the Justices order therein, they are to suffer imprisonment without Bayl, except he or she give Security to perform, or else to appear at the next Sessions, and abide the order of the Justices there, if any be made there; and if none be made, then to stand to the first order. *Dalt. J.P. ch. 11. fo. 37. & 38. 18 El. ch. 3.*

58. Note, That this Order may be made by any two Justices of the County (*Quor. unus*) as it is held by some, but most properly by the two next Justices, and the question must be about such a Bastard Child as is like to be a charge to the Parish; and the Security must be given to the Parish where the Child is born, to secure the Parish from the charge of the Child, or to keep the Child: it must be a Parish within the County where the two Justices have power, and the Order must be certain how long the reputed Father must keep the Child, secure the Parish, &c. and it must be made against the person that is suspected to have gotten the Bastard Child, and not against another person to contribute towards it, because it was gotten in his house, &c. and the Order must express the Child by the name of a Bastard Child, and not the reputed Child of such an one, and the Justices for the better discovery of the matter, may upon oath examine the Mother her self concerning the reputed Father, the time, &c. *Dalt. J.P. ch. 11. fo. 37. 18 Eliz. ch. 3. 7 Jac. ch. 4. See Steel's Rep. fo. 154, 245, 246, 247, 388. and see Pridgeon's Case. Hill. 9 Car. 1.*

B. R.

B.R. and Slater's Case. Pasch. 13 Car. 1. B.R. Cro.
Rep. 1. part.

CHAP. V.

*The Overseers Office in making of Rates, and passing
Accounts.*

59. **T**Hese Officers, or the greater part of them (for the doing and performing of the things they have in charge) may raise weekly, or otherwise by Taxation of every Parson, Vicar, and other Occupier of Land, House, or Tythes, Colmines, or saleable Underwoods, within the Parish, Town, &c. such a sum as they shall think fit; and this Rate they must have allowed and confirmed under the hands of two Justices (*Quor. unus*) and then by Warrant from them, or any other two Justices (*Quor. unus*) they may levy, by distress and sale of the Goods of the party refusing to pay the said Tax, tending the Overplus to the owners, and in default of distress, two such Justices may commit the party to Prison, there to remain without Ball till it be discharged by him. 43 *El. ch. 2. Dalt. J.P. ch. 4. fo. 97. Wingat's Stat. Tit. Poor. People.*

60. Now these Rates ought to be well and truly made, according to mens visible Estates, real and personal, within the place only, and not for any Estate elsewhere; at *Lincoln Assises 9 Car. 1. by Justice Hutton and Crook.*

61. Note, That a Parish in Reputation shall be a Parish within this Law: so that if *A.* be an ancient Parish that hath Officers in it, and there be a Town within this Parish, which for a long time hath been used and reputed as a Parish, and hath all Parochial Rights,

Rights, As Churchwardens, &c. here this place may be rated as a Parish towards the Poor. *Hutton's Rep. fo. 93 & M.3 Car.B.R.Hilton & Paul's Case.Cro. 3.part.Rep.*

62. This Tax must be set upon the Tenants and Occupiers of Lands; and not upon the Land-Lords living within or without the Parish; for the Tenant only is chargeable for the Land. *Bulstred's 1.Part.Rep.fo. 354.*

63. The Parson having a full Tenth Part of the Profits of the Place, may be rated to a Tenth Part. *Resol. Judges, 1683. Sect. 32.*

64. He that doth occupy Lands in his own hands, lying in several Parishes, he must be charged in every Parish for his Land lying therein, only according to the proportion thereof, and no more; but for his personal estate it seems reasonable he should be charged for it in the place where his person is: All Lands Ancient Demeasns, Guildable, and Copyhold, are to be charged with these Rates, which ought to be according to the value, or by the pound, and not according to the quantity. *Sed consuetudo tollit Legem.*

65. The Rate for Stock or Goods is thought reasonable to be set after the proportion of Lands (*viz.*) an 100 pound in stock to be rated after 5 or 6 pound a year in Land.

66. Note, That in some special cases a man may be rated beyond his ability, as where one brings a charge upon a Parish; or under any pretence brings in a man that may be chargeable in a Parish, he may, if there be cause for this, be raised in his Rate to the full value of his estate; and so was the opinion of Sir Nicholas Hyde. *Dalt. J.P.ch. 40. fo. 97.*

67. Where the Inhabitants of any Parish are not able to relieve their Poor, any two Justices

(*Quor.*

(*Quor. unus*) may tax other Parishes and places within the Hundred, yea, the whole Hundred, if need require; and where that is not sufficient, the Justices in their Sessions may tax the County in part, or wholly at their discretion. 43 *El. ch. 2* *Wingate's Abr. Stat. Tit. Poor People. 14 Car. 2. ch. 12.*

68. If any persons find themselves agrieved in any Tax or other Act done by the Overseers, or by the Justices of Peace, they are to be relieved at the Quarter Sessions. *Dalt. J. P. ch. 40. fo. 97. Wingate's Abr. Stat. Tit. Poor People.*

69. The Father, Grandfather, Mother, Grandmother and Children of every poor person, shall be assessed towards their Relief, as the Justices of the Peace in their Sessions of the Peace in the County where such Father, &c. dwells, shall limit and appoint, on pain to forfeit 20 s. a month to the use of the Poor, to be levied by distress and sale as aforesaid, and for want of distress to be committed to prison till the Forfeiture be paid. 43 *El. ch. 2. Wingate's Abr. Stat. Tit. Poor People. Dalt. J. P. ch. 40. fo. 98.*

70. Head Officers in Cities and Corporate Towns, and Aldermen of London, have in their several Precincts like Authority that Justices of Peace have in their Counties, and no other Justices of Peace are to enter and intermeddle there. *Wingate's Abr. Stat. Tit. Poor People. 43 El. ch. 2.*

71. If any Parish shall extend into two Counties, or part thereof to lie in any City or Corporate Town where they have Justices: Then the Justices of every County, &c. are to intermeddle only within their own limits; and every of them respectively within their limits are to execute this Law concerning the nomination of overseers, binding of Apprentices, granting Warrants to levy
Taxations

ations, taking Accounts of Overseers, and committing such as refuse to account or to pay their Arrearages; and yet the Overseers shall without dividing themselves, execute their Office in all places within the said Parish, but shall give up Accounts to the Justices or Head Officers of both places. *Wingate's Abr.Stat.Tit. Poor. People. 43 El. ch.2.Dalt. J.P.ch.40.fo.97.98.*

72. These Officers within four days after the end of their year (and that other Officers are nominated) are to yeild up a true account to two Justices (*Quor. unus*) of these things following, 1. What sums of Money they have received or rated, and not received? 2. What stock of Ware or Stuff is in their hands, or in the hands of any of the Poor? 3. What Apprentices they have put out, and bound according to the Statute? 4. What Poor they have set to work or relieved? 5. What Poor they have suffered to wander and beg out of their Town, or in the Highways, or in their Town without their directions? 6. Whether they meet monthly to consider of the things belonging to their Office? 7. Whether they made their Rates indifferent upon all men, according to their ability? 8. Whether they have endeavoured to gather and levy such Assessments? 9. Whether they have neglected the Justices Warrants to them, or any of them directed for the levying of any forfeiture according to the Stat. 43 El.c.2. *Dalt. J.P.ch.40.fo.96.*

73. Note, That by the Statute of 30 Car.2. of Burying in Woollen, the Justices are not to allow the Accounts of the Overseers of the Poor, until they have given them an Account of the Burials and Certificates, and of their levying the Penalties in pursuance of that Act, 30.Car.2.ch.3.

74. Now

74. Now if the Churchwardens or Overseers or any of them, shall refuse to make and yeild a true and perfect Account to the said Justices, of all such money and of all such stock as aforesaid, any two Justices (*Quor. viiis*) may commit them to the common Goal, there to remain without Bayl, til they have made a true account, and satisfied and paid to the new Overseers so much of the said sum or stock, as upon the said account shall be remaining in his or their hands, &c. And if they make a false account, they may be bound over to the Assizes or Sessions, and there an Indictment may be preferred against them. *Dalt. J.P.c.40.f.96.*

75. Also if any of the Churchwardens or Overseers shall refuse, or deny to pay or deliver over to the new Overseers the Arrearages (sums of Money or Stock) which shall be in their hands, and due and behind upon their Account to be made as aforesaid, any two such Justices of Peace may make their Warrant to the present and subsequent Churchwardens and Overseers, or any of them, to levy the same by distress and sale of the Offenders Goods, rendring to the parties the Overplus, and in default of such distress, any two Justices of the Peace may commit him or them to the Common Goal, there to remain without Bail, until payment or delivery of the said Sum, Arrearages and Stock be made. *42 El.ch. 2. Dalt. J.P.40.f.96.*

76. If any such stock shall be in the hands of any of the Poor to work, and such Poor shall refuse to deliver the same, two such Justices may make the like Warrant, to levy the same by distress, and for lack thereof may commit such Offenders to the Goal as aforesaid. *Dalt. J.P.ch.40.f.96.*

77. And for these aforesaid, and all other Negligencies of the Churchwardens and Overseers, in the

the Execution of their Office, about the Poor, &c. every of them for every default he makes forfeits 20 s. which Default must be proved either by the Offenders own Confession, or by Examination of Witnesses, and it is to be levied by the new Churchwardens and Overseers, or one of them, by Warrant from two Justices, as aforesaid, by distress and sale of the Offenders Goods : and for want of Distress, two such Justices may commit Offenders to the Goal, there to remain without Bail, till the said Forfeitures shall be paid ; which said Forfeitures are to be imployed to the use of the Poor of the said Parish. *Dalt. J. P. ch. 40. s. 97. 43 Elic. ch. 2.*

CHAP. VI.

The Overseers Duty about Burying in Woollen.

78. **N**O Corps shall be buried in any thing other than what is made of Sheeps Wooll only, or be put into any Coffin lined or faced with any thing made of any material but Sheeps Wooll, on pain of the Forfeiture of five pounds, 30 *Car. 2. ch. 3.*

79. An Affidavit under the hands and seals of two Witnesses (or under the Hand of the Magistrate or Officer before whom it was sworn, for which nothing shall be paid) must be brought to the Minister within eight days after the Party is interred, that he was not buried contrary to this Act, which shall be taken before some Justice of Peace, Master of Chancery, Ordinary or Extraordinary, Mayor, Bayliff, or other cheif Officer of the City, County, Burrough, &c. where the Party was

was buried : And if no such Affidavit be brought, the Minister shall give notice thereof under his hand to the Churchwardens or Overseers of the Poor, who within eight days after shall repair to the Chief Magistrate in any Town, &c. if buried there, else to a Justice of Peace, who upon Certificate thereof from the Minister, &c. shall grant a Warrant for levying the Forfeiture by distress and sale of the Goods of the Party deceased, or in default thereof, of the Persons goods in whose house the Party died, or the goods of any that had a hand in putting such Party into any Shroud, Coffin, &c. contrary to this Act, or that ordered the same : And if such person were a Servant, and died in the Masters Family, the Masters Goods to be lyable : And if such Person died in his Parents Family, the Parents Goods to be lyable : One moiety of which Forfeiture shall be to the Poor of the Parish where the Party is buried, the other to him that will sue for the same. 30 *Car.2.c.3.*

80. Ministers, Churchwardens, & Overseers, Justices of Peace, or Chief Magistrates, neglecting their Duty aforesaid, shall forfeit five pounds for every Offence, to be recovered by Action of Debt, Bill, Complaint, &c. wherein the Prosecutor shall recover his full Costs, so as the Suit be commenced : within six months after the Offence committed : One fourth part of the Forfeitures to the King ; two fourth parts to the Poor of the Parish where the Offender dwells, and one fourth part to the Informer. 30 *Car.2.ch.3.*

81. Every Minister shall keep a Register of all Burials and Affidavits : And where no Affidavit is brought as aforesaid, shall enter a Memorial thereof against the name of the party Interred, and of the time when he notified the same to the Church-

Churchwardens or Overseers of the Poor. And the Overseers when they give up their Accounts at the Sessions, or to any two Justices at their monthly Meetings, shall give an account of the Name and Quality of every Person interred since their former Account; and of such Certificates, and of their levying the Penalties, and of their disposal thereof, on pain of five pounds to be levied by distress and sale of Goods, by Warrant from the said Justices, or two of them: and their Accounts shall not be allowed till they have accounted for their Burials. 30 *Car. 2. ch. 3.*

82. No Penalty shall be incurred where the party died of the Plague; If any person be prosecuted, for what he shall do in pursuance to this Act, he may plead the general Issue, and give this Act in evidence: And upon a *Nonsuit*, Discontinuance or Verdict for him, or Judgment upon a Demurrer, he shall have treble Costs. 30 *Car. 2. ch. 3.*

83. And now by the Statute of 32 *Car. 2.* (where no Justice of Peace shall reside or be to be found in any Parish where any Party shall be Interred) such Oaths or Affidavits may be administered, not only by such Magistrates as aforesaid, but by any Parson, Vicar, or Curate in the same County, other than of the Parish or Chappel of Ease where the Party is Interred; and they are to attest the same under their hands gratis. 32 *Car. 2. ch. 1.*

The Overseers Duty about *Irish Cattel*, See *Constables Guide*, ch. 6.

Their Duty in suppressing Conventicles, See *Constables Guide*, ch. 8.

84. Note, That the Overseers of the Poor, are to receive for the use of the Poor of the Parish where the Offence is committed, of such who kill or take in the night time any Conies upon the borders

ders of Warrens, or other grounds lawfully used for keeping of Conies, except Owners, &c. or persons by them imployed, and of such who use Snares, Harepipes, or other like Engines, or who take any Fish by any Net, Angle, or other Device whatsoever in any water or River, or shall be assisting thereunto, without consent of the Lord or Owner of the said Water, what Sum the Justice of Peace before whom such Offender shall be convicted, shall think meet, not exceeding ten shillings (which he is to pay over and above recompence to the Owner:) And in default of payment thereof, he that takes or kills such Conies, or useth Snares, &c. shall be committed to the House of Correction for any time not exceeding one month: And the goods of him that takes such Fish shall be lyable to distress; and for want of a Distress, he shall be committed to the House of Correction for any time not exceeding one month, unless he enter into bond with one or more Sureties to the Party injured, not exceeding ten pounds, never to offend in like manner. 22 & 23 Car. 2. ch. 24.

A

A GUIDE for Surveyors of High-ways and Bridges.

CHAP. I.

Of the Choice of these Officers, how many Sorts of ways there are, with some few General Cases concerning Highways.

1. **T**Hese Supervisors or Surveyors of the Highways are Officers yearly Chosen by the Constables and Churchwardens of every Parish.

2. And after Choice made of these Officers, as aforesaid, and notice given them, they are forthwith to take the Office upon them, on pain to forfeit 20 s. 2, 3. *P.M. ch. 8. Wingate's Abr. Stat. tit. High-ways.*

3. The Constables and Churchwardens are then also to appoint six days betwixt then and Midsummer, to be set apart for the amendment of Highways, and must give publick notice thereof in the Church the next Sunday after *Easter. 5 El. ch. 13. 23 P.M.c. 8. Wingate's Abr. Stat. Tit. Highways.*

4. Note, That there are three kind of Ways, (to wit) first a Foot-way, called *Iter quod est ius eundi, vel ambulandi hominis.* Secondly, a Foot-way and an Horse-way, called *actus ab agendo*, and this vulgarly is called a Pack or Drift-way, and is both Foot-way, and Horse-way. Thirdly, a Cart-way, &c. called *Via* or *Aditus*, (and this containeth the other two, and a Cart-way also) for this is *ius eundi, vehendi, & vehiculum & jumentum ducendi* ;

ducendi; and this is two-fold, to wit, *Via Regia*, the Kings High-way for all men, & *communis Strata*, belonging to a City or Town, or between Neighbours. *Dalt. J.P.ch.26.fo.67.*

5. Note, That the Kings High-way (or *Via Regia*) leading either to the Market, or from Town to Town, the Freehold and Soil thereof, and the interest of all Trees, and other such Profits the reupon growing do belong to the Lord of the Soil, or the Lord of the Mannor, and therefore such Lords are chargeable to cut down the Trees and Bushes growing in such High-ways; and it is called the Kings High-way, for that the King at all times hath therein Passage for Himself and his People, & may punish all Nuisances therein, though otherwise the Interest be in the Lord to bring his action for digging therein, or other like Trespas there done. *Dalt. J.P.c.26.fo.62. and see Rolls Cases, 1.part.fo.392.2 E.4.9.8.E.4.9.17.E.3.fo.43. Bro.Chemine, 10, 11. & Lett.3.27.H.6.fo.9.8.H.7.fo.5.*

6. Generally the owner of the Soil on both sides of the way shall have the Trees growing in the way: But the Lord of a Rape, within which there are ten Mannors, may prescribe to have all the Trees growing within any High-way within such Rape, although the Mannor or Soil adjoyning belong to another person, for the usage and taking of the Trees is a good badge of Ownership. *P. 11. Jac. B.R. between Sir Tho. Pelham, & Wiat, & Blake, Rolls Cases. 1.part.fo.392.*

7. Where any person shall inclose any part of the High-way, such Person shall be charged to amend the High-way next adjoyning to the said Inclosure. And if one man have inclosed on one side, and another man on the other side, they shall be both charged to mend the same way. *Dalt. J.P.c.*

26. *fo. 69.* and see *Tr. 10. Car. 1. B.R. Sir Edward Duncomb's Case, Cro. 3. Part. Rep. & 6 Jac. & 19. Jac. fo. Resolved. Roll. Cases 1. part. fo. 390.*

8. But otherwise generally High ways must be sufficiently amended at the charge of the whole Town : And it is not enough for the Inhabitants to do their full Six days work yearly ; except their ways be all well and sufficiently repaired thereby ; For if all their said ways be not sufficiently amended, the whole Town may be indicted therefore : and if Six days work in the year will not serve to amend them, the Surveyors may, yea, must appoint more days. *Dalt. J.P. ch. 26. fo. 69.*

6. The Owner of Lands, if he be not the occupier thereof, ought not to be charged towards the repair of the common High-ways ; but the Tenant who occupies the Lands is to be charged. *Hill. 11. Car. 1. Br. in one Foster's Case, per Curiam. Rolls Cases. 1. part fo. 390.*

CHAP. II.

The Duty of the Surveyors about Setting and Calling the Parishioners to the Common days works for the High-ways, and about taking and digging for Gravel, Chalk, Sand, &c. See fol. 58, 59.

10. **T**Hese Officers are to see that the Parishioners do their work on the days appointed, and that according to these Rules following, *viz.* Every person having in his own Occupation a Plough Land in Tillage or in Pasture in the same Parish, or keeping there a Plough or Draught, shall find and send on every day to the place appointed by the Surveyors, one Wain or Cart provided, after the Fashion of the Country, with Oxen, &c. fit for the carriage, and with necessary Tools fit for the

the work, and with two able men, who are therof to do fuch work with their Wains, &c. as they fhall be appointed (by the Surveyors) by the fpace of eight hours every of the faid fix days, on pain of 10 s. very day default is made, 2, 4 P. M. ch. 8. Ra stall. 199. Lamb. 459. Wingate's Abr. Stat. Tit. High ways, Dalt. J. P. ch. 26. fo. 68.

11. And every other Houfholder, Cottager, and Labourer of the Parifh, Town, &c. (able to labour and being no hired Servant by the year) muft by himfelf, or fome other able man, be then and there ready to work every of the faid fix days, by the fpace of eight hours, as aforefaid, where they fhall be appointed by the Surveyors, under pain to forfeit 12 d. for every day they make default, 2, 3 P. M. ch. 8.

12. Note, That all Perfons being chargeable but as Cottagers by the 2, & 3 P. M. yet if they be in Subfidy 5 l. in Goods, or 40 s. in Lands, or above, they muft find two able men to work every of the faid fix days. 18 El ch. 10. Wingate's Abr Stat. Tit. High-ways. Dalt. J. P. ch. 29. fo. 68.

12. If any of the Carriages fhall not be thought needful by the faid Surveyors upon any of the faid days, they may appoint inftead of a Team, two able men to work as aforefaid, who fhall not fail on pain that the party that fhould fend them fhall forfeit 12 pence for every day that either of them make default. Wingate's Abr. Stat. Tit. High-ways. 2, 3 P. M. ch. 8. Dalt. J. P. ch. 26. fo. 68.

13. He that fhall occupy a Plow-land in Tillage or Pasture, lying in feveral Parifhes, fhall be chargeable only in the Parifh where he dwellerh; and he that occupieth feveral Plow-lands in feveral Parifhes, fhall be charged in each Town or Parifh where fuch land lyeth (to wit) to find in each

Town or Parish one Cart furnished as afor. said, though he be no Inhabitant there. *10 El.ch.18.Dalt. J.P.ch.26.fo.68.*

14. Now for the further opening of these things, note, That it is said that a Plow-land is not of any certain contents, but ordinarily it is so much as one Plough may Plough in one day, which in some Countries is more, and in some less, according to the heaviness of the Soil. *Co.9.Rep.f 124.Co.on Lit. fo.69. & vide Lamb.ver.Hide.35 H.6.fo.29.*

15. And note, That a Plow-land or Carve of Land may contain House, Meadow, pasture, and Wood: And if one have so much of this as will keep a Plough and yield Tillage for it, if part of it were eared in this case, it seems he is to send his Plough. *Vide Co.4.Lib.Rep.fo.37.b. & 9 Rep.fo.122.*

16. He that hath a Plough Land, and no Plough, but doth suffer his Land to lie fresh, yet he is to find a Plough for this work; and so it hath been agreed by the Judges. *Mich. 21 Jac. Dalt. J.P.ch. 26.fo.72.*

17. He that keepeth a Plough or Draught for carriage, although he occupied little or no Land, but carrieth or plougheth for other men, yet it seems he is to send his Cart to the High-ways; and if a man keep only two Horses and a Cart for his own business, in this case it seems he is to come with his Cart and two Horses with a man to manage th m. *Vide.Dalt. J.P.ch.26.fo.72.*

18. It is held by some, that so many Ploughs or Draughts men have, and use frequently about their own business in Summer, so many they are to bring with them to the High-ways; so that if a man have one Plough and five or six Horses, and shall plough seven or eight score Acres of Land, and shall usually go in the Summer time with two Carts
or

or Draughts ; in this case, it seems he is to come with two Carts or Draughts to this Service : And he that occupied 40 or 50 Acres of Land, and keepeth only three Horses, and one Draught or Cart, he is to come with one Draught or Cart. *Vid. Dalt. J.P.cb.26.f0.22.*

19. These Officers may, if they see cause, for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken stones already digged, of any mans Quarry lying within the same Parish without leave of the Owner, as they shall think needful, or gather the loose stones lying dispersed in any mans grounds ; but they may not without Licence dig in any mans Quarry for new Stones, nor take the great Stones already digged ; and if there be no such Rubbish to be found in any mans Quarry within the said Parish, then may they enter into any mans several ground within the Parish, lying near the place where the ways are decayed, and there (if they see any hopes of finding materials fit for the Reparation thereof) without leave of the Owner, they may dig for Sand, Stones, Gravel, &c. so that it be not in the Houses, Gardens, Orchards, or Meadows of any man ; for they are not to come there without Licence of the Owner ; and in such place where they may dig without leave, they are not to make a Pit above ten yards in breadth or length, and they are to take care that the place be filled up again at the charge of the Parish within one month after, upon pain to forfeit of five Marks of the owner of the Ground, to be recovered by Action of Debt ; and this is by the 5 *El.c.13.*

CHAP. III.

The Surveyors Duty about cutting down Bushes, Trees, and Scouring of Ditches in the High-ways; and also touching Presentments and Inquiries about Defaults, passing of Accounts, Travelling of wagons, wayns, &c.

20 **I**F the owners of the Grounds next adjoyning to the High-ways do not keep their Hedges low, and cut down their Trees and Bushes growing in the same ways, they forfeit ten shillings. *Wingate's Abr Stat. Tit. High-ways. 5 El. ch. 13. 18. El. ch. 10.*

21. And he that scours not his Ditches in the ground next adjoyning to the ground that is next the Highways, to the end the water may have the better passage out of the High-ways, shall forfeit 12 pence for every Rod so left unscoured. *18 E. c. 30. Wingate ut supra.*

22. If any scour his Ditch by the High-way side, and throw the scouring thereof into the High-way, and suffer it to lie there six months, he forfeits for every load thereof 12 pence; and the Surveyors are to make Sluces where such banks have been heretofore made, for carrying away the water out of the High-way. *18 El. c. 10.*

23. Every Surveyor may cause any water-course, or Spring of Water in the High-way, (within their Parish) to be turned into another mans several Ditch or Ground next adjoyning to the said way, in such manner as by the discretion of the said Surveyor shall be thought mee. *Dalt. J. P. c. 26. f. 70.*

24. Note, That the Forfeitures of the Act of the 18 El. 10. must be levied by the Surveyors for the time being, (by Warrant from the Justices before whom the party shall be convict) by Distress

stres and Sale of Goods; which forfeitures are to be employed towards the amendment of the High ways; and if the Surveyors neglect to do it within one year after the Offence committed, then the Constables and Churchwardens by like Warrant may do it. 18 El. ch. 10. *Wingate's Abr. Stat. Tit. High-ways.*

25. The Surveyors or one of them are to present to the next Justice of Peace every default upon the 2, & 3 P. & M. c. 8. & 5 El. c. 14. within one month after it shall be made, on pain of 40 s. and the Justice is on pain of 5 l. to certify the same at the next Quarter Sessions, where the Justices have power to inquire of the Default, and shall set such Fine upon the Delinquents, as they or two of them (*Quor. unus*) shall think fit. 5 El. c. 13. *Dalt. J.P. c. 16 f. 70.*

26. Note, That the Presentment of a Justice of Peace in Sessions, upon his own knowledge, shall be a good Conviction, whereupon the Justices in Sessions, or any two of them (*Quor. unus*) may assess a Fine, as well as upon a Verdict of Twelve men; but in this case the Delinquent shall be admitted to his Traverse as in other cases, 5 El. c. 13 *vid. Rastal. 199.*

27. The Defaults and Offences upon these Stat. 2, & 3 P. M. 5. El. & 18 El. are inquirable by the Justices of Peace in their Sessions, or by Stewards in Leets, either of which have power to set Fines upon Offenders at their discretions; of which Fines Indented Estreats (in the Sessions under the hand and seal of the Clerk of the Peace, in the Leet under the hand and seal of the Steward) shall be delivered within six weeks after *Michaelas*, one part of the Estreat to the Bayliff or High-Constable of the Liberty, and the other part to the Constables and Churchwardens of the Parish where the

Offenders live. 2, 3 *P. M. ch. 8. § El. c. 13. 18 El. c. 10.*
Wingate's Abr. Stat. Tit. High-ways.

28. And these Estreats shall be a sufficient Warrant for the Bayliff or Chief Constable of the Liberty to levy the said Offences by way of distress; and if no distress can be found, or the party do not pay the fine within 20 days after lawful demand thereof, he or they shall forfeit double so much; all which Fines and Forfeitures are to be employed and bestowed towards the amendment of the High ways in the Parish where the Offences are committed. *Wingate's Abr. Stat. Tit. High-ways, 2, 3 P. M. ch. 8.*

29. The Bayliff, or High Constable, shall yearly betwixt the first of *March* and last of *April*, render an Account unto the Constables and Churchwardens, who have the other parts of the Estreats of the Fines, of what money they have received, on pain of 40 s. and the said Constables and Churchwardens have power to call the Bayliff or High-Constable before two or more Justices of the Peace (*Quor. unus*) to pass his Account, who have power to commit him, until he have satisfied all the Arrearages by him received save 8 d. in the pound for his own Fee, and 12 d. in the pound for the Clerk of the peace, or Steward of the Leet, and in this case the succeeding Constables and Churchwardens have the same Power as their Predecessors had. 2, 3 *P. M. c. 8.*

30. Two Justices of the Peace by the *Stat. 18 El.* may take Accounts of the Surveyors of the ways, and the Petty Constables and Churchwardens, for such Forfeitures (within that Statute) as they have levied. 18 *El. c. 10 Dalt. J. P. c. 26 f 71.*

31. Note, That the *Stat. 14 Car. 2. c. 6.* about High-ways, is expired: For the same was made to
 con-

continue but till the end of the first Sessions of the next Parliament.

32. Note, There are several Statutes which concern particular High-ways, in which these Surveyors are little concerned; I shall therefore only name the Statutes, and they who desire to be further informed therein, may look the Statutes at large.

33. Stat. 39 El. c. 19. for repairing the High-ways in the Wild of *Sussex, Surrey, and Kent*, used for Iron Works. Stat. 37 H.8. c. 3. For *Huntington Lane* near to *Chester*. Stat. 14 H.8. c. 6. & 26 H.8. c. 7. For laying out new High-ways in the Wild of *Kent* or *Sussex*. Stat. 1 P. Mar. 2. c. 5 for the Cawsway between *Dorchester* and *Shirborn*. Stat. 18 El. c. 10. a. about the Kings Ferry in *Kent*.

CHAP. IV.

Some Heads of the Stat. 22, & 23 Car. 2. ch. 17. concerning the Ways, Sewers, Pavements, &c. in London, and the Scavengers Office.

34. **B**Y the Stat. of 22, & 23 Car. 2. A Clause in a late Act of Parliament, Entituled, *An Act for rebuilding the City of London*; wherein was Enacted, That the Numbers and Places for common Sewers, Drains, and Vaults, and the manner of Paving and pitching Streets and Lanes in the said City and Liberties, should be set out by Persons appointed by the Mayor, Aldermen, and Common Council, or seven or more of them, together with the Surveyors or one of them within the Precincts respectively, which Persons, or seven or more of them were impowred to impose Taxes upon Houses in proportion to the benefit they receive thereby, and to levy the same by distress and

Sale of Goods, is made perpetual, together with the Powers thereby given and appointed to be executed: And the sole Powers of ordering and regulating the keeping clear, pitching, and paving the Streets, Lanes, and Passages, with the manner thereof, and of making and cleansing Drains and Sewers in *London* is to remain in the Mayor, Commonalty, and Citizens, to be executed by such as the Mayor, Aldermen and Commons in Common-Council shall appoint, or seven or more of them, being all Members of the said Court. And persons employed in any of the said Works are enjoined to observe the directions of the Persons in that behalf authorized, 22, & 23 *Car.2.c.17.*

35. Offenders may be proceeded against by Indictment at the next Sessions of the Peace, in the said City and Liberties, unless the submitted to the Censure of the persons so authorized, or any seven or more of them, and pay the Mulct by them imposed to the Chamber of *London*, to be employed towards the Works in this Act mentioned. 22, & 23 *Car.2.c.17.*

36. The persons so authorized may impose Taxes on the several Wards and Precincts, and direct Precepts to the respective Deputies and Common-Council-Men to assess the same and like Precepts to Scavengers to collect the same: And where any Church or Churchyard shall front or adjoin to any of the said Streets, Lanes, or Passages, they may assess a reasonable proportion upon the Parish to be paid by the Churchwardens, of which Assessments the Deputies and Common-Council-Men shall return Duplicates with the Scavengers names, within twenty days after receipt of the Precepts. And in default of the said Deputies and Common-Council-Men the said persons to be

authorized may rate the said Assessments. And in default of payment within six days after demand, the Scavengers may levy the same by distress and sale of Goods, rendering the overplus, besides the reasonable charge of distraining: And the money so collected shall be paid into the Chamber of London, not to be issued thence, but by order of the said persons so to be appointed, or seven or more of them. 22, & 23 Car. 2. c. 17.

37. Inhabitants aggrieved through defect or decay of Pavements, or want of cleansing the Streets, &c. shall upon proof that such grievance is uncorrected, receive directions from the Persons so to be authorized, or seven or more of them, for redressing the same, and a Warrant under their hands and seals to the Chamberlain of London to issue Moneys for defraying the charge thereof, together with any Sum not exceeding ten shillings for encouragement of his or their diligence, who upon receipt of such Warrant shall pay the same accordingly: And persons aggrieved by any charge imposed by virtue of this Act, within five days after demand thereof, may appeal to the Mayor and Court of Aldermen, whose Order therein shall be final. 22, & 23 Car. 2. c. 17.

38. The Mayor, Aldermen, and Commons in Common-Council may set out & purchase ground for Laystalls, and places for publick stores, for receipt of Dirt and Rubbish carried out of the City, and for other Materials and Commodities. The Money for the same to be paid out of the Moneys arising by the Imposition upon Coals appointed for publick uses of the City, other than the Money appointed for building Churches. 22, & 23 Car. 2. c. 17.

29. No persons by this Act made lyable to be rated.

rated towards the altering, mending, or cleansing the said Vaults, Sewers, &c. or cleansing, &c. Streets, Lanes, &c. shall be otherwise charged or lyable thereunto. 22, & 23 Car.2. c.17.

40. Note, That the Stat. of 14 Car.2. c.2. about the Ways, Sewers and Pavements in *London* is expired, for the same was to continue no longer than till the end of the first Session of the next Parliament.

CHAP. V.

Several Cases about the Repairs of Bridges, with the Names of the Statutes which concern particular Bridges.

41. **W**Here a Common Bridge in the Kings High-way is in decay, and that it cannot be proved or known, who, nor what Lands are chargeable to the repairing thereof; in this case four Justices of the Peace (whereof one to be of the *Quorum*) within the Shire or Riding wherein such decayed Bridges be, and if they be in a City or Town Corporate, then four such Justices of Peace there, may, within the limits of their several Commissions, call before them the Constables, or two of the most honest Inhabitants of every Town and Parish within the Shire, Riding, City or Town Corporate, wherein such Bridge or any parcel thereof shall happen to be; and the Justices (upon the appearance of the Constables or other Inhabitants, and with their assents) may tax every Inhabitant in any such City, Town, or Parish within their limits, to such reasonable sum of money as by their discretions they shall think convenient, as well for the repairing of such Bridge, and also for the making and repairing of the High ways by the

the space of 300 foot next adjoyning to the ends of any such Bridges. 22 H.8.c.5. Dalt. J.P.c.13.f.40. Co.2.part.Inst.f.701,702.

42. But note, where the Franchise, City or Burrough is a County of it self, and hath not four or more Justices of the Peace, whereof one or more are of the *Quorum* in this case no other Justices of the Peace of any Shire or County have any Power to meddle there by this Act, but such decay must be reformed by the Common Law by such Remedy, as they were before the making of the Stat. of 22 H.8.Co.2.part.Inst.f.702.

43. And note, That this Taxation ought not to be made by the Justices without the consent of the Constables or Inhabitants, nor by them without the Justices; and this Tax ought to be upon every Inhabitant in particular, and not to be set upon the Hundred, Parish, Town, &c. for then one or few might be distrained upon for the whole. Co.2. part.Inst.f.704.

44. After such Taxation made as aforesaid, the said Justices of Peace shall cause the Names and Sums of every particular person so by them Taxed, to be written in a Roll indented in Parchment for every Hundred, and sealed with their Seals. Co.2.part.Inst.f.704 Dalt. J.P.c.13.f.40.

45. And the said Justices may make two Collectors of every Hundred, for the Collecting of all such Sums of Money, by the said Justices set and taxed, which Collectors receiving the one part of the Roll indented, have power thereby to collect all the Sums of Money therein contained, and if refusal be made upon demand, then to distrain and sell such distress, rendring the overplus to the Owner if any be. Dalt. J.P.c.13.f.40.21.H.8.c.5. Co.2.part.Inst.f.705.

46. The

46. The said Justices also are to appoint two Surveyors, who shall see such decayed Bridges and ways repair'd and amended from time to time as often as need shall require, to whose hands the Collectors must pay the Moneys by them received.

Dalt. J.P.c. 13. f. 49. 22. H.8.c. 5.

47. And the said Collectors and Surveyors, and their Executors and Administrators, and every of them shall from time to time make a true Account to the said Justices of Peace, of the Receipts, Payments, and Expences of the said Sums of Money, and if any of them refuse so to do, then the said Justices of Peace from time to time by their discretions, may make out Process against the said Collectors and Surveyors, their Executors and Administrators by Attachment, Precept, or Warrant, under their Hands and Seals returnable at their General Sessions of the Peace, and the said Justices may allow such reasonable Costs and Charge, to the Surveyors and Collectors upon their Accounts as to them shall seem convenient. 22 H.8.c. 5. *Dalt. J.P. c. 13. f. 40.*

48. If any such Bridge be wholly in a City, or other Corporate Town, the Inhabitants of the said City or Corporate Town must repair it; and where such Bridges lie out of such City or Corporate Town, the same must be made by the Inhabitants of the Shire or Riding within which the same Bridge shall be, and if part of the Bridge be in one Shire or Riding, City or Corporate Town, and part in another, then every of them shall be charged to make and repair such part as shall lye and be within their own limits. 22 H.8.c. 5. *Co. 2. part. Inst f. 207. Dalt J.P.c 13. f 41,*

49. But otherwise no Village or Freeman shall be compelled to make any Bridge; but such as of
old.

old time, and by Right they were wont to make.
Magna Charta c. 15.

50. By the Common Law some persons were bound to repair Bridges, *Ratione tenure sue Terrarum*, &c. and this was binding, into whose hands soever the estate did come; but they which have lands on the one side, or on the other, or on both, are not bound in Common Right to repair the same. 44 *El.* 3. 31. 21 *E.* 4. 46. 5. *H.* 7. 3. *Crompt* 186. 8 *H.* 7. 5 *b. Co. 2. part. Inst. f.* 700.

51. If a man, which holdeth 100 Acres of Land, ought to repair a Bridge by tenure of the same, do alien 20 Acres thereof to one man, and 10 Acres to another man, in such case every owner or occupier of such Lands must be charged proportionably for their said Lands. *Regist.* 268. *o. F. N. B.* 235. *E. Co. 2. part. Inst. f.* 700.

52. Again, some by the Common Law were bound by prescription to repair a Bridge, but herein there is a diversity between Bodies Politick or Corporate, Spiritual or Temporal, and Natural Persons: For Bodies Politick, &c. may be bound by usage and prescription only, because they are local, and have a perpetual succession, and never dye; but a Natural person cannot be bound by the Act of his Ancestor, without Assets, or some profit to be taken therefore. 21 *E.* 4. *f.* 38. *b.* 27. *Aff.* 8. *Crompt.* 187. *Co. 2. part f.* 700. *Dalt. J. P. c.* 13 *f.* 41.

53. By Common Right Bridges are to be amended by the whole County, if it be not known who ought to do the same otherwise. *Pasch* 19 *E.* 3. 28, 29. *Co. 2. part. Inst. f.* 701. *Crompt.* 186. *b.* *Tr.* 10. *Car. 1.* the Case of Longford Bridge. *Rolls Cases* 1 *part. f.* 368. & *Cro. Rep.* 3 *part.* the same case.

54. If a man erect a Mill for his own particula profit, and cut a new course for the Water to come
to

to it, and makes, a new Bridge over the same, and the Kings Subjects use to ride over the same as over a common Bridge; such Bridge ought to be repaired by him who hath the Mill, and not by the County, because he erected it for his own benefit, 8 E. 2. B R. adjudged for *Bow Bridge* and *Channel Bridge* against the Prior of *Stratford*, *Rolls Cases*. 1 part. f. 368.

55. Such as are chargeable to repair a Bridge, may enter upon any other mans Land or Soil adjoining, and lay their Stone, Lime, Timber, or other things necessary there for the repairing and amending thereof, and the owner of the Lands shall have no Action therefore; for it is for the common Profit; and the party that is chargeable to repair a Bridge, must also maintain the way at each end thereof (though the Soil be to another) and if the ends be broken by the Water-course, he must follow the Water-course, and repair the way, &c. *Crompt.* 186. b. 43. *Aff. Dalt.* J. P. c. 13. f. 42.

56 The Names of some Statutes for particular Bridges follow, 8 H. 6 c. 28. for the making of *Burford* and *Culhamford* Bridge. 18 E. c. 1. 7 & 27 E. c. 25. for the maintenance of *Rocheſter* Bridge. 18 El. c. 20 for repair of the Bridges within a mile of *Oxford*, 23 El. c. 11 for the maintenance of the Bridges over *Tosse* in *Wales*. 39 El. c. 23. for making and repairing of *Newport* and *Carlion* Bridges over the River *usk*. 39 El. c. 24. for building and maintenance of a Bridge at *Wilton* upon *wy* near *Roß* in *Herefordſhire*, 43 El. c. 16. for erecting and repairing *Edon* and *Presberk* Brides in *Cumberland*. 3 Jac. c. 23. for making and repairing *Chepſtow* Bridge.

57. By the Stat. 22 Car. 2. c. 12. It is enacted, That the Surveyors and orderers of the work of amendment of the High-ways shall be yearly chosen
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In Christmas-week, according to the Stat. 2, & 3. P. & M. c. 8. Which persons so chosen shall take upon them that Office, and shall appoint six days for providing Stones, Gravel, and other Materials, and for working in the High-ways, having respect to the season of the year and weather, and giving notice publickly some convenient time before the several days. At which day, all persons lyable to the said work shall attend and work: And the said Surveyors and Orderers shall make return of the Defaulters and every of them within one month, to some neighbouring Justice of the Peace of the same County.

*A G U I D E for Treasurers of
the County Stock, for the Relief
of Poor Maimed Souldiers and
Mariners.*

1. **T**Hese Treasurers are certain Officers appointed by the Justices of Peace, to have the Charge of the Receipt and Disbursement of Money taxed and levyed upon the whole County yearly for the relief of Poor Maimed Souldiers and Mariners: For the Justices of Peace are yearly at the Quarter Sessions, but about *Easter*, to chuse or appoint one or two persons (according to their discretions) of the County for the taking and distributing of the Moneys collected for the purposes aforesaid: and these Treasurers, by the words of the Statute, ought to be Subsidy men of 10 pounds in Lands, or 15 pounds in Goods (but it seems, if they be sufficient men, this is not stood upon)

upon) and these Officers are to continue in their Office one year, and new ones then to be chosen in their rooms. 43 *El.c.3. Wingate's Stat. Tit. Captains.*

2. Now for the raising of Money for these Treasurers, the greater part of the Justices in their Quarter Sessions, have power to charge every Parish within their limits towards a weekly Relief of Maimed Souldiers and Mariners, so that no Parish pay weekly above 10 pence, nor under two pence; nor any County, which consists of above 50 Parishes, pay above six pence; one Parish with another. 43 *El. c.3.* As for the Power given the Justices of Peace by *Stat. 14 Car.2.c.9.* to charge the Parishes with a greater Proportion, that is now gone; and so is likewise the other Branch of that Statute, touching Provision and Relief for such Maimed or Indigent Persons who were in This, or the late Kings Service during the Wars; and for the Widows and Orphans of such as died in that service, the said Statute being expired, must be assessed in every Parish by the Parishioners (or in their Default) by the Constables and Churchwardens (or in their Default) by the next Justice or Justices of the Peace. And the Constables and Churchwardens have power to levy the Tax in every Parish of every person refusing to pay the same, by distress and sale of his Goods, rendring the overplus to the owner; and in the Constables and Churchwardens Default, the next adjoining Justices may distrain for the same. 43 *El.c.3 Wingate's Stat. Tit. Captain, & Dalt. J P.c. 53. f. 135.*

3. The Sums of Money so charged upon the respective Parishes, as aforesaid.

4. When the Tax is levyed, the Constables and Churchwardens are to deliver It quarterly (ten days before every Quarter Sessions) to the High Con-

Constables of their Division, who must deliver to the Treasurers of the County, at the same Quarter Sessions all the same Money; and if the Constables or Churchwardens, their Executors, &c. fail in the payment to the High Constable within the time aforesaid, then they are to forfeit 20 s. and if the High Constable fail to pay the Treasurers every Sessions, then he forfeits 40 s. which forfeitures, as it seems, the Treasurers may levy by Distress and Sale of the Offenders Goods, without any Warrant, rendring the overplus to the Owner: And these Forfeitures are to go in Augmentation of the Treasurers Stock. 43. *El. c. 3.*

5. The Maimed Soldier or Mariner which was prest, shall repair (if he be able to Travel) to the Treasurers of the County where he was prest; if he were not prest, then to the Treasurers of the County where he was born, or where he last dwelt by the space of three years, at his Election; but if he be not able to Travel, then to the Treasurers of the County where he Lands; and he is to bring with him a Certificate under the Hand and Seal of the Chief Commander, or of the Captain under whom he served, containing the particular of his hurts and service, which Certificate shall also be allowed by the Muster-Master, or the Receiver General of the Rolls for the Muster, under one of their hands. 43 *El. c. 3.*

6. Then upon such a Certificate, the Treasurers aforesaid may allow the party Relief to maintain him till the next Quarter Sessions; and then the major part of the Justices may allow him a Pension, which the Treasurers must pay him quarterly, untill it shall be revoked or altered by the said Justices; and this allowance is not to exceed 10 *l. per ann.* to a common Souldier, nor 15 *l.* to an Officer under

under a Lieutenant, nor 20 l. to a Lieutenant. 43 El. c. 3. *Wingate's Stat. Tit. Captains and Souldiers.*

7. Note, Where Souldiers and Mariners arrive far from the place where they are to receive Relief, the Treasurers there shall give them Relief, and a Testimonial whereby they may pass from Treasurer to Treasurer, until they shall come to the place required; and this shall be done upon the bare Certificate of the Commander and Captain, although they have not as yet obtain'd any allowance from the Muster-Master, or Receiver General of the Muster Rolls. *Wingate's Stat. Tit. Captains and Souldiers.* 43 El. c. 3.

8. If any Souldier or Mariner beg, or counterfeit a Certificate, he shall be punished as a common Rogue, and shall lose his Pension, if he have any 43 El. c. 3. *Wingate ubi supra.*

9. When out of the County where the party was prest, a fit Pension cannot be satisfied, it shall then be supplied by the County where he was born, or where he last dwelt by the space of three years. *Wingate ubi supra.* 43 El. c. 3.

10. The Treasurers are to Register all their Receipts and Disbursements, and must enter the Names of the Parties relieved into their Book, and also the Certificate, by virtue whereof the disbursements are made; and where they disallow of a Certificate, they are to set down the Reasons of their Refusal under the Certificate, or on the back thereof. 43 El. c. 3. *Wingate Stat. Tit. Captains and Souldiers.*

11. If any Treasurer wilfully refuse to give Relief in the cases aforesaid, the Justices of the Peace in their Sessions may set a Fine upon him, which may be levied by distress and Sale of his Goods. *Wingate ubi supra.* 43. El. c. 3.

12. These

12. These Officers at the end of their year, within 10 days after *Easter* Sessions, are to give up a just account to the succeeding Treasurers of all their receipts and Disbursements within the time of their Office; and then if they have any Money in their hands, they are to deliver it to their Successors; and if any such Officer, his Executors, or Administrators shall not give up such Account within the time aforesaid, or shall be otherwise negligent in the execution of his Office; The Justices at their Sessions may assess what Fine they please upon him; so that it be not under five pounds, but what they please above five pounds upon him, his Executors or Administrators. *Wingate ubi supra.*
43 *El.c.3.*

13. In Corporations the Justices there are to put this Action in Execution, and not the Justices of the County: This Act is not to prohibit the City of *London*, to make a Tax if need require, differing from that above limited in this Act, so that no Parish pay above three shilling weekly, nor under 12 pence weekly on Parish with another. 43 *El.c.3.*

*A GUIDE for Treasurers of
the County Stock, for the Relief
of Poor Prisoners in the King's-
Bench and Marshalsea, and for
Hospitals and Almshouses in their
several Counties.*

1. **T**Hese Officers are to be yearly chosen by the Justices at their Quarter Sessions about *Easter*,

Easter, and they must be two for every County, Ridings, &c. and by the words of the Statute they ought to be Subsidy men of 5 pound in Lands, or 10 pounds in Goods at the least, or near that value; and these Officers ought to continue in their Office but one year, and then others to be chosen, and they are to have the charge of the Receipt and Disbursement of the Money taxed and levyed upon the whole County yearly, for the Relief of the Prisoners in the *Kings-Bench* and *Marshalsea*, and for the relief of Hospitals and Almshouses within the same County. 43 *El.c.2*.

2. And for this purpose the Ju'ices of Peace of every County or Corporation, or the major part of them, at *Easter Sessions* yearly, or as often as they shall think fit, may rate every Parish at a certain sum to be paid weekly; but so as no Parish pay more than six pence, nor less than a half penny, and one Parish with another not above two pence through the whole County or Corporation, which sum so rated, the Constables and Churchwardens in every Parish, or any of them, (or in their default the next Justice of Peace) have power to assess, and to levy by Distress and Sale of the Parties Goods refusing to pay, rendring the Overplus to the Owners; and for default of Distress, the said Justice may commit the Party to Prison till it be paid. *Wingate's Stat Tit. Poor. 43 El.c.2 Dalt. J.P. c.53.f.135*.

3. And these sums collected and levyed as aforesaid, the Churchwardens or Constables of every Parish are to pay to the High Constable of that Division ten days before every Sessions, on pain that they or their Executors, &c. shall forfeit ten shillings: And the High Constable is to pay over the Sums received to the Treasurers, or one of them every

every Quarter Sessions, on pain that he, his Executors, &c. shall forfeit 20 shillings; and these Forfeitures are to be levied by the Treasurers by Distress and Sale of the Offenders Goods, rendering the overplus to the party offending, which Forfeitures ought to be employed by the Treasurers for the uses aforesaid. 43 *El.c. 2. Wingate's Stat. Tit. Poor.*

4. And such Sums as the Justices shall appoint for the *Kings-Bench* and *Marshalsey* (which must be 20 s. yearly out of each County to each of them) These Officers must pay over in convenient time to the Lord Chief Justice of *England*, and Knight Marshal for the time being, equally to be divided to the uses aforesaid, taking their Acquittances for the same, and in default of the said Chief Justice, the next ancientest Justice of the *Kings-Bench*. *Wingate ubi supra 43 El. c. 2*

5. They are to pay yearly also, by a Quarterly Payment, such Sums of Money as shall be set down by the Justices of Peace at their Quarter Sessions, unto the Masters and Governours of the Houses of Correction, the which if they do refuse or neglect to do, the same Masters or Governours (without any Warrant) may levy the same of the Goods of the said Treasurers by distress and sale, rendering them the Overplus. 7 *Jac.c. 4.*

6. And the Surplusage of the Money, by the Treasurers received, they must distribute and bestow for the Relief of the poor Hospitals of the same County, and for the Relief of those that have sustained Losses by Fire, Water, the Sea, or other Casualties, according to the discretion of the Justices of the Peace of the same County. *Wingate's Stat. Tit. Poor. 43 El.c. 2*

7. These Officers at the end of their year at
Easter

Easter Sessions, are to give an account to the succeeding Treasurers of all their Receipts and Disbursements in the time of their Office; and then also, if they have any Money in their hands, they are to deliver up the same to the succeeding Treasurers. And if any Treasurer, so elected as before, shall wilfully refuse to take upon him the said Office of Treasurership, or to distribute and give Relief, or to account according to that Order the Justices shall set down, the Justices may Fine them at their Sessions, which Fine must not be under three pounds. 43. *El.c.2.*

A GUIDE for Masters of the House of Correction, and Governours of the Corporations, or Work-Houses in London, Westminster, &c.

I. **T**He Governour or Masters of the House of Correction is an Officer appointed by the Justices of Peace at their Quarter Sessions, to have the Oversight and Government of the House of Correction within their County or Riding, of whom the Justices are to take sufficient Security for the continuance and performance of the Service belonging to his Office; and the Justices are to set down what allowance they shall have for their pains, (which may be charged upon the County) and for the Relief of such as shall happen to be weak and sick in their custody, and for the Stock to set on work such persons as shall be committed thither; and they may set down their

their orders concerning the same according to their discretions; and the Money allowed to these Officers by the Justices as aforesaid, is to be paid quarterly before-hand by the Treasurers of the County for the Relief of the Prisoners in the *Kings-Bench* and *Marshalsey*; and if the Treasurers refuse or neglect to pay it, the Master of the House of Correction may levy the same, or so much thereof as shall be unpaid, upon the Treasurers Account, by Distress and Sale of their Goods, rendering back the Overplus of the Money. 39 *El. c.4.7 Jac. c.4.*

2. Now the Office and Duty of this Officer consists in these things following, *viz.* To look well to the same House, and the backside thereof, and to all the Implements and Goods he doth find there, and to look to all such lewd persons as he finds there at his entrance, and to receive all such Rogues, Vagabonds, and idle or disorderly persons, as by any of the Justices of Peace shall be sent thither. *Co. 2. part. Inst. f. 731.*

3. He is also to keep safely all such as are committed to his custody, and not to suffer them to wander abroad about the Country; or to escape away without order of Justices. 7 *Jac. c.4 Co. 2. part. Inst. f. 734.*

4. He is also to see and take care, that amongst the persons committed to his charge, if there be any sick, or otherwise Impotent, that stand in need of Relief, that he do relieve them, according to their necessity. 7 *Jac. c.4. Co. 2. part. Inst. f. 732.*

5. And for the rest that are able to work, he is to see and take care that from time to time, as long as they remain there, they be set to work and labour: for during that time, they must in no sort be chargeable to the Countrey for any allowance, either at coming in, or going forth, or abode there,

for they are to have such and so much allowance only as they shall deserve by their own labour and work: and if they will not work and perform their Task, he is to punish them as he sees cause, with putting on Fetters or Gyves upon them, and by moderate whipping of them. 7 *Jac. c.4. Co.2. part. Inst. f. 731.*

6. And lastly, at every Quarter Sessions the Master is to give an Account of all such persons as have been committed to his custody: And if he offend in any of these particulars before rehearsed, or in any other Duty incident to his Office, the Justices of Peace may impose such Fines and Penalties upon him for the same, as they shall think fit; and these Fines must be paid unto, and must be accounted for by the Treasurer of the County Stock for the *Kings-Bench* and *Marshalsey*, &c. 7 *Jac. c.4. Co.2. Inst. f. 734.*

7. Now touching the Corporations and Work-Houses in *London* and *Westminster*, and within the Burrough Towns and Places of the Countie of *Middlesex* and *Surrey* within the weekly Bills of Mortality, and their Officers; these things are to be observed following: First, it is ordained, that there shall be one or more Corporation or Corporations, Work-house or Work-houses within the Cities of *London* and *Westminster*, and the Burroughs and Places within the Counties of *Middlesex* and *Surrey*, lying within the weekly Bills of Mortality, consisting of a President, Deputy President, and Treasurer: and the Lord Mayor to be President of the Corporation, Work-house or Work-houses within the City of *London*, and the Aldermen and 52 other Citizens to be chosen by the Common-Council to be Assistants; which President and Assistants, or major part of them, are

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to choose a Deputy President and Treasurer, and all other necessary Officers to execute the powers appointed by the Act; and a President, Deputy President, Treasurer and Assistants are to be appointed by the Lord Chancellour or Lord Keeper of the Great Seal for the City of *Westminster*, and the Liberties thereof, for the Corporation or Corporations, Work-house or Work-houses within the same; and for the said Places within the Weekly Bills of Mortality in the Counties of *Middlesex* and *Surrey*, a President, Deputy, and Treasurers are to be chosen by the major part of the Justices of the said Counties at their Quarter Sessions, of the most able Inhabitants and Freeholders of the said Counties of *Middlesex* and *Surrey*, for the Corporation or Corporations, Work or Work-houses of the said Counties. 14 Car. 2. c. 12.

8. And upon Vacancy, Death, or otherwise of any of the Presidents, Deputy Presidents, Treasurers or Assistants in the City of *Westminster* and places aforesaid, in *Middlesex* and *Surrey*, the major part of the Justices at their General Quarter Sessions have power to elect others in their rooms; and at every Quarter Sessions, the said Justices are to take an account in writing of all the Receipts, Charges, and Disbursements of the Officers and Treasurer of such Corporation or Corporations, Work-house or Work-houses, how, and how many poor people have been imployed and set to work in the year last past, and what Stock there was and is remaining. 14 Car. 2. c. 12.

9. The President, Deputy President, Treasurers and Assistants aforesaid shall be Bodies Politick and Corporate for ever, and shall have a perpetual Succession, and may sue, plead, and be impleaded; by the Name of a President and Governours of the

Poor for the respective places aforesaid, in all Courts and Places of Judicature within the Kingdom of *England* and *Wales*, &c. and may without Licence in Mortmain, Purchase, or receive any Lands, &c. not exceeding the yearly value of 3000 *l. per annum*, of the Gift, Alienation or Devise of any person or persons; and every of the Corporations may keep Courts for the ends and purposes in the Act expressed, at such time and place as shall be appointed by the said President, his Deputy or the Treasurer; who are upon the desire of any four of the said Corporation, at any time to cause a Court to be warned accordingly, and may from time to time make Common Seals, for the use of the respective Corporations. 14 Car. 2. c. 12.

10. The Respective Presidents and Governours of the said Corporations, or any two of them, or any person authorized and appointed by them, or any two of them, may from time to time apprehend, or cause to be apprehended any Rogues, Vagrants, Sturdy Beggars, or idle or disorderly person, within the said Cities and Liberties, Places, Divisions, and Precincts, and cause them to be kept and set to work in the several and respective Corporations and Work houses. 14 Car. 2. c. 12.

11. If the President and Governours of any of the said Corporations shall certify under their Seals, at any time their want of Money for a Stock, and what sum they think fit for the same, to the Common Council of the City of *London*, and the Burgesses and Justices of Peace in their Quarter Sessions for *Westminster*, or to the Justices of the respective Counties for *Middlesex* and *Surrey* in their Quarter Sessions, then they are from time to time to set down and ascertain such competent sums

sums of money for the purposes aforesaid, not exceeding one years Rate usually set upon any person for, and towards the Relief of the Poor; and the same proportion out of the several Wards, Precincts, Counties, Divisions, Hundreds, and Parishes, as they shall think fit, and according to the said Proportions for the said several Wards, Precincts and Parishes, to Tax and Rate the several Inhabitants, within the said respective Wards, Precincts and Parishes; in which Tax if any shall find himself agrieved, he or they are to appeal to the Justices of the Peace at their next open Sessions, where the business is to be finally ended. 14 Car. 2. c. 12.

12. And any Alderman of London, or his Deputy, Burgesses and Justices of the Peace of the Counties of *Middlesex* and *Surrey*, by Warrant under their Hands and Seals, may authorize the Churchwardens, or Overseers of the Poor within the Places and Parishes aforesaid, to receive and demand of every person and persons such sums of Money as shall be assessed upon them, by virtue of the Taxations and Constitutions aforesaid; and for default of payment within ten days after demand or notice left at the dwelling house or lodging of every person assessed, then to levy the same by distress and sale of his Goods, rendring him the overplus. 14 Car. 2. c. 12.

13. But now this Power of making Taxations or Assessments upon the Parishes is gone: For by the Statute of 22, & 23 Car. 2. it was Enacted, That no Assessment should be laid on any of the said Parishes after the 29th. of September 1675. 22, & 23 Car. 2. c. 18.

14. The respective President and Governours, or seven of them may make and constitute Orders

and By-Laws for the better relieving, regulating, and setting the Poor to work, apprehending and punishing of Rogues and Vagabonds, within the Cities, Liberties, and Places aforesaid, provided the said By-Laws be presented to the Justices of Peace at their Quarter Sessions, and confirmed by the order of the said Court; And the Presidents and Governours, or four of them of any of the said Corporations or Work-houses may choose and entertain all such Officers as shall be needful to be employed in and about the Premises, and remove them as they see cause, and make such reasonable allowances unto them out of the Stock belonging to the Work-house, as they shall think fit. 14 Car. 2. c. 12.

15. This Act is not to prejudice any the Franchises, Rights, Liberties, or Priviledges heretofore granted by any Kings or Queens of this Realm, to the Dean and Chapter of the Collegiate Church of St. Peters in westminster. 14 Car. 2. c. 12.

A GUIDE for Bayliffs of Mannors.

1. **T**He Bayliff of a Mannor is an Officer chosen by the Lord of the Mannor, and this Officer by the Ancient Saxons was called a Reeve, for the Bayliff was not known among them, but came in with the Normans it seems. *Termes de Ley*, verb. Bayliff.

2. This Officer is to Summon and call the Lords Courts, and to collect his Rents, Fines, Heriots, and Amerciaments, and other profits happening within the Mannor as they grow due; and he may

may seize or distrain for them *ex Officio*, where seizure and distress is justifiable without any special Command of the Lord, he may also pay Quir-Rents. *Termes de Ley, ubi supra.*

3. It is said he may also order his Lords Husbandry, distrain Beasts, damage Feasant, repair any Houses, Hays, or Pales; and for that purpose cut down Timber or Trees: but it is not safe for him to build a new House, or set up an old House that is fallen, or to make any new Additions or Alterations, as to Tyle the House, which before was Thatched, or Pale it where before is was Hedged, or the like, without a special command from his Lord so to do, for otherwise he will be a Trespasser to the Lord.

4. It is said also, that he may take any Cattel for his Lord to compest his ground as an Agistment, and cut down Underwoods that have been used to be cut, and he is to over-see and order the Labour of other Labourers and Servants under him about his Lords work.

5. And lastly, These Officers are to give Account to their Lords of all their Receipts and Disbursements, and pay into him the money remaining in their hands, being required thereunto: and if they refuse, the Lord may compel them thereunto by an Action of Account given to him for his Relief in such case. *Bro. Bayliff. 31.8 E.4 f.13.*

A GUIDE for Governours of FAIRS.

1. **T**He Owner, Governour, Ruler, Farmer, Steward, Bayliff, or Chief Keeper of every Fair and Market overt, are to appoint and limit out a certain and open place within the Town, Place, Field, or Circuit, where Horses, Mares, Geldings, and Colts, must be sold, and they must appoint one sufficient person or more to take Toll, and keep the same place from ten of the Clock before Noon until Sun-set of every day of the foresaid Fair or Market, upon pain to lose for every default 40 shillings 2, 3 P.M.C. 7. Co. 2 part. Inst. f. 715.

2. And the Toll-gatherer, his Deputy or Deputies are to take their due and lawful Tolls for every Horse, Mare, &c. at the place and times aforesaid: and they are to have before them at the taking of the said Toll, the Parties or the Bargain, Exchange, Gift, Contract, or putting away of every such Horse, Mare, &c. and also the same Horse, Mare, &c. so sold, exchanged, or put away, and then the Toll-gatherer must write in his Book the Names, Surnames, and dwelling places of all the said Parties, and the Colour, with one special Mark at the least of the said Horse, Mare, &c. on pain to forfeit for every default 40 shillings. 2, 3 P. M. ch. 7. Co. 2. part. Inst. fo. 715.

3. And the said Toll-gatherer is within one day after the Fair, &c. to bring his Book to the Owner, Governour, or Ruler, &c. of the Fair
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or Market, who is then to cause a note to be made out of the same; of the true number of all the Horses, Mares, &c. Sold at the said Fair or Market, to which note he must set his hand or Mark, on pain of 40 shillings: And if the Toll-gatherer neglect to bring the Book as aforesaid, he also forfeits 40 shillings. 2, 1 P. M. c. 7. Co. 2. part. Inst. f. 715.

4. Note, That where no Toll is due, the Book-keepers Fee for entring every Contract, is one peny and no more. 2, 3 P. M. c. 7. Co. 2. part. Inst. f. 716.

5. Now since the making of this Stat. 2, 3 P. & M. It is further provided by the 31 Eliz. That every Seller or Exchanger of any Horse, Mare, &c. in a Fair or Market, which is unknown to the Toll-taker or Book-keeper, must procure one credible person that is well known to the Toll-keeper, or Book-keeper, who is to vouch and testifie his knowledge of the Seller, and the Toll-taker or Book-keeper is to enter both the Names and Surnames, Mysteries and Places of dwelling of the Seller and Voucher into his Book, with the colour, mark, and Price of the Horse, Mare, &c. so sold or exchanged; and he is to give the Buyer, if he require it, a note in writing out of his Book, concerning the Contract subscribed with his hand, for which he is to have two pence. 31 Eliz. 12. Co. 2 part. Inst. f. 717, & 718.

6. Every Toll-taker or Book keeper that suffers a Sale to pass without a Voucher, unless he know the party of his own knowledge, as aforesaid, and every person making false Testimony or Avouchment in the behalf aforesaid, and every Seller unknown to the Toll-Taker, not bringing a Voucher, and causing the same to be entred as aforesaid, forfeits five pounds, one moiety thereof to the King, and the other to the Prosecutor; and

and also the sale of such Horse, Mare, &c. to be void. 31 *El.c. 12. Co. 2 part. Inst. f. 718.*

7. And note, That though an Horse, Mare, &c. be at the sale used in all the points aforesaid, with Voucher, &c. yet the right Owner, his Executors or Administrators, may redeem a stolen Horse, if they claim him within six months after the stealing, at the Parish or Corporation, where they shall find him, and make proof within 40 days after by two sufficient Witnesses before the next Justice of Peace of the County, or before the Head Officer in a Corporation, that the Horse was theirs, and repay to the Buyer such price for the Horse, as the same Buyer shall upon his own Oath before such Justice or Officer testify he paid for him. 31 *El.c. 12. Wingate's Stat. Tit. Fairs and Markets. Co 2. part. Inst. f. 718.*

8. And if a stolen Horse be not sold in Fair or Market, according to the Rules aforesaid, then such sale does not alter the property of the right Owner, but he may Seize or Replevy him wheresoever he finds him 31 *El.c. Wingate ubi Supra. Co. 2. part. Inst. f. 718.*

9. By the Stat. 22 *Car. 2. c. 8* There shall be no Bushel but the *Winchester* Bushel; containing eight Gallons, and none shall sell by other measure, on pain of 40 shillings.

10. If the Clerk of the Market of the Kings-house, or others authorized to mark or seal Measures, being required shall neglect or refuse to seal or mark any Bushel, Half Bushel, or Peck duly gauged, he forfeits 5 *l.* for the first offence, and for every other offence 10 *l.* Or if the Kings Clerk of the Market of his House take more than his Fees; or if any other take above one peny for sealing a Bushel, one half peny for the Half Bushel or Peck, or

or more than one farthing for any lesser Measure, he incurs the Penalties in the Stat. 17. Car. 1

11. That at the charge of such persons who have the Toll, or profit of the Market where no toll is taken, there shall be before 29 Sept. 1670. one Measure of Brass provided and chained in the Market place, upon pain to forfeit $\text{5 l. 22 Car. 2. c. 8.}$

12. By the Stat. of 22, & 23 Car. 2. It is further provided, That whosoever shall sell or buy any Corn or Salt by the Bag, or without measuring, being thereunto required, or in any other manner than as by the Stat. 22 Car. 2. c. 8. is directed, and without shaking the Measure by the Buyer, shall forfeit besides the Penalty in the former Act, all the Corn or Salt, or the value thereof to the Person or Persons complaining. 22, & 23 Car. 2. c. 12.

13. Upon complaint to one or more Justices of Peace, the Proof shall lye upon the Defendant, to make appear by Oath of one or more Witnesses, that he or they did sell or buy according to this and the said former Act; wherein if he fail, he shall forfeit as by this Act is directed, to be levied by distress and sale of Goods, by Warrant under the Hand and Seal of one or more Justices before whom such conviction shall be. The Penalties to be distributed, one half to the Poor of the Parish where the Offence shall be committed, the other to the Informer. 22, & 23 Car. 2. c. 12.

F I N I S.